

EXHIBIT 19

KIMBERLY COLE

February 13, 2017

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

KIMBERLY COLE, ALAN COLE,
JAMES MONICA, LINDA BOYD,
MICHAEL MCMAHON, RAY
SMINKEY, JAMES MEDDERS,
JUDY MEDDERS, ROBERT
PEPERNO, SARAH PEPERNO,
and KELLY MCCOY, on behalf
of themselves and all
others similarly situated,

Plaintiffs,

vs.

No. 13-cv-07871-FLW-TJB

NIBCO, INC.,

Defendant.

Deposition of:

KIMBERLY COLE

Taken on behalf of the Defendant
February 13, 2017

Reported by: SARAH M. MOTLEY, LCR

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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6 A P P E A R A N C E S</p> <p>7</p> <p>8 For the Plaintiffs:</p> <p>9 MR. JOSEPH B. KENNEY</p> <p>10 Attorney at Law</p> <p>11 McCuneWright, LLP</p> <p>12 1055 Westlakes Drive, Suite 300</p> <p>13 Berwyn, PA 19312</p> <p>14 (610)727-4360</p> <p>15 jbk@mccunewright.com</p> <p>16</p> <p>17 For the Defendant:</p> <p>18 MS. RACHEL E. STEPHENS</p> <p>19 Attorney at Law</p> <p>20 Lathrop & Gage, LLP</p> <p>21 2345 Grand Blvd., Suite 2200</p> <p>22 Kansas City, MO 64108</p> <p>23 (816)292-2000</p> <p>24 rstephens@lathropgage.com</p> <p>25</p> <p>26 Also Present:</p> <p>27 MR. ALAN COLE</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p>	<p>1 EXHIBITS (cont'd)</p> <p>2 Exhibit Number 13 120</p> <p>3 Installation Guide</p> <p>4</p> <p>5 Exhibit Number 14 122</p> <p>6 Claim # 1 of 2012</p> <p>7 Exhibit Number 15 129</p> <p>8 Claim # 2 of 2012</p> <p>9</p> <p>10 Exhibit Number 16 130</p> <p>11 Calendar</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1</p> <p>2 I N D E X</p> <p>3</p> <p>4 Examination</p> <p>5 By Ms. Stephens 6</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2</p> <p>3</p> <p>4 S T I P U L A T I O N S</p> <p>5</p> <p>6</p> <p>7 The deposition of KIMBERLY COLE was taken by</p> <p>8 counsel for the Defendant, at Sherrard & Roe, 150 3rd</p> <p>9 Avenue South, Suite 1100, Nashville, Tennessee, on</p> <p>10 February 13, 2017, for all purposes under the Federal</p> <p>11 Rules of Civil Procedure.</p> <p>12 All formalities as to caption, notice,</p> <p>13 statement of appearance, et cetera, are waived. All</p> <p>14 objections, except as to the form of the questions,</p> <p>15 are reserved to the hearing, and that said deposition</p> <p>16 may be read and used in evidence in said cause of</p> <p>17 action in any trial thereon or any proceeding herein.</p> <p>18 It is agreed that SARAH M. MOTLEY, LCR, Notary</p> <p>19 Public and Court Reporter for the State of Tennessee,</p> <p>20 may swear the witness, and that the reading and</p> <p>21 signing of the completed deposition by the witness</p> <p>22 are not waived.</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 6</p> <p>1 * * *</p> <p>2 KIMBERLY COLE,</p> <p>3 was called as a witness, and having first been duly</p> <p>4 sworn, testified as follows:</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 QUESTIONS BY MS. STEPHENS:</p> <p>8 Q. Good morning. Could you state your name for</p> <p>9 the record.</p> <p>10 A. Kimberly Cole.</p> <p>11 Q. Mrs. Cole, have you ever given a deposition</p> <p>12 before?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And under what circumstances have you</p> <p>15 given a deposition?</p> <p>16 A. Through my work.</p> <p>17 Q. Okay. And what was your job at the time that</p> <p>18 you gave that deposition?</p> <p>19 A. A registered nurse.</p> <p>20 Q. Could you say that louder.</p> <p>21 A. Yeah, sure. I'm sorry. A registered nurse.</p> <p>22 Q. Okay. And that was some sort of -- was it</p> <p>23 like a malpractice suit?</p> <p>24 A. Uh-huh.</p> <p>25 Q. Yes?</p>	<p style="text-align: right;">Page 8</p> <p>1 question that I asked, just let me know. We can have</p> <p>2 the court reporter read it back or I can try to</p> <p>3 rephrase it. Is that fair?</p> <p>4 A. Yes.</p> <p>5 Q. How long ago did you give that deposition in</p> <p>6 the malpractice lawsuit?</p> <p>7 A. Three months ago.</p> <p>8 Q. Okay. So relatively recently?</p> <p>9 A. Yeah. Maybe three months ago.</p> <p>10 Q. Okay. And how long have you been a</p> <p>11 registered nurse?</p> <p>12 A. Almost 16 years.</p> <p>13 Q. Okay. Great.</p> <p>14 What year did you graduate from high school?</p> <p>15 A. 1994.</p> <p>16 Q. Okay. And then did you continue on to study</p> <p>17 in college?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And what year did you graduate from</p> <p>20 college?</p> <p>21 A. 2001.</p> <p>22 Q. And then since 2001, you've been a registered</p> <p>23 nurse?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Where do you currently live,</p>
<p style="text-align: right;">Page 7</p> <p>1 A. Yes.</p> <p>2 Q. Okay. That response reminds me that when</p> <p>3 you're giving a deposition, one of the things we need</p> <p>4 to make sure that we do is that, first of all, you</p> <p>5 and I try to talk one at a time as much as possible.</p> <p>6 Okay?</p> <p>7 A. Yes.</p> <p>8 Q. Second thing is, when you're giving a</p> <p>9 response, make sure that your response is verbal and</p> <p>10 that -- yes and no, rather than uh-huh and uh-uh.</p> <p>11 Does that make sense?</p> <p>12 A. Yes.</p> <p>13 Q. That makes it easier on the court reporter</p> <p>14 here to make sure she gets down your answers and that</p> <p>15 they're clear. Okay?</p> <p>16 A. Yes.</p> <p>17 Q. Another thing today is if I ask you a</p> <p>18 question and you don't understand my question, please</p> <p>19 let me know. Otherwise, I'm going to assume that you</p> <p>20 understand my question. Is that fair?</p> <p>21 A. Yes.</p> <p>22 Q. Occasionally, your attorney here, Mr. Kenney,</p> <p>23 may object to a question I ask. Most of the time,</p> <p>24 that means you still need to answer my question if</p> <p>25 you understand it, but if you don't remember the</p>	<p style="text-align: right;">Page 9</p> <p>1 Mrs. Cole?</p> <p>2 A. Gadsden, Tennessee.</p> <p>3 Q. And what's your address?</p> <p>4 A. 19207 Highway 79.</p> <p>5 Q. And that house on Highway 79, is that the</p> <p>6 house that has had the plumbing issues that are at</p> <p>7 issue in this lawsuit?</p> <p>8 A. Yes.</p> <p>9 Q. Occasionally today I might refer to that as</p> <p>10 your house, and you understand me, that that's the</p> <p>11 house we're talking about? Does that make sense?</p> <p>12 A. Yes.</p> <p>13 Q. I'm here representing NIBCO, Inc. When is</p> <p>14 the first you had ever heard of NIBCO?</p> <p>15 A. Really, after my first leak.</p> <p>16 Q. Okay. So perhaps somewhere around 2010,</p> <p>17 maybe?</p> <p>18 A. I really can't give a specific date.</p> <p>19 Q. Okay. I might ask you again after we go</p> <p>20 through some things and maybe that will jog your</p> <p>21 memory.</p> <p>22 A. Okay.</p> <p>23 Q. What year was your house built?</p> <p>24 A. Construction started around 2008.</p> <p>25 Q. And when was construction completed?</p>

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<p style="text-align: right;">Page 10</p> <p>1 A. We moved in, in 2009. May, I believe.</p> <p>2 Q. Before you moved into the house on</p> <p>3 Highway 79, did you own a home?</p> <p>4 A. Yes.</p> <p>5 Q. And where was that house?</p> <p>6 A. 136 Beaver Run Cove.</p> <p>7 Q. Also in Gadsden?</p> <p>8 A. Bells.</p> <p>9 Q. Bells, Tennessee?</p> <p>10 A. Yes.</p> <p>11 Q. Why did you decide to move -- well, my</p> <p>12 understanding is that you guys built the house on</p> <p>13 Highway 79. Is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. And why did you decide to build a house?</p> <p>16 A. We wanted a bigger home.</p> <p>17 Q. And my understanding, do you have four</p> <p>18 children?</p> <p>19 A. Yes.</p> <p>20 Q. How big is the house on Highway 79?</p> <p>21 A. Roughly, 28 square feet.</p> <p>22 Q. 2800 square feet?</p> <p>23 A. 2800. Sorry.</p> <p>24 Q. How many bedrooms?</p> <p>25 A. One, two, three -- five, or four and a study,</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. So for as long as you remember, your father</p> <p>2 has been involved in the construction business?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So your understanding is that you took</p> <p>5 the plans that you ordered online, and then your</p> <p>6 general contractor was Cobb Construction?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Was there a subcontractor who</p> <p>9 installed the plumbing?</p> <p>10 A. No.</p> <p>11 Q. Did Cobb Construction install the plumbing,</p> <p>12 then?</p> <p>13 A. I'm not really sure what you're...</p> <p>14 Q. Okay. Well, Cobb Construction was the</p> <p>15 general contractor, correct?</p> <p>16 A. Yes.</p> <p>17 Q. For your house? Okay.</p> <p>18 Did your father or someone who worked for him</p> <p>19 also install the plumbing in your house?</p> <p>20 A. I know he's a licensed plumber, as well, if</p> <p>21 that's what you're asking. I'm not --</p> <p>22 Q. Well, who did the work?</p> <p>23 A. He did.</p> <p>24 Q. Okay. And at the time, you said your father</p> <p>25 was also a licensed plumber; is that correct?</p>
<p style="text-align: right;">Page 11</p> <p>1 just depending on how you want to do it.</p> <p>2 Q. So approximately, five bedrooms.</p> <p>3 And how many bathrooms?</p> <p>4 A. Two-and-a-half.</p> <p>5 Q. Who designed the house on Highway 79?</p> <p>6 A. I'm not certain what you mean.</p> <p>7 Q. Okay. Well, did you have an architect draw</p> <p>8 up plans?</p> <p>9 A. No. We picked them out ourselves. We went</p> <p>10 through books and online and -- I can't really</p> <p>11 remember where we found the actual one, if it was</p> <p>12 online or in a book, but we ordered the plans.</p> <p>13 Q. Who built the house on Highway 79?</p> <p>14 A. Cobb Construction.</p> <p>15 Q. Cobb Construction is owned by your father?</p> <p>16 A. Yes.</p> <p>17 Q. His name is Roger Cobb?</p> <p>18 A. Yes.</p> <p>19 Q. What is your father's background in</p> <p>20 construction?</p> <p>21 A. What do you mean?</p> <p>22 Q. Well, he has a -- Cobb Construction Company.</p> <p>23 Do you know how long he's had that company?</p> <p>24 A. Well, I'm 40, so... Before I was born, so</p> <p>25 40-plus years.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Yes. Yes, ma'am.</p> <p>2 Q. Okay. And was Cobb Construction typically in</p> <p>3 the residential home business? Is that something</p> <p>4 that they typically did?</p> <p>5 MR. KENNEY: Object to the form.</p> <p>6 You can answer if you know.</p> <p>7 THE WITNESS: I don't know.</p> <p>8 BY MS. STEPHENS:</p> <p>9 Q. Okay.</p> <p>10 A. I don't understand, really.</p> <p>11 Q. Did your father's company also build other</p> <p>12 houses?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Was that typically what your father</p> <p>15 did, build houses?</p> <p>16 A. Oh, yes.</p> <p>17 Q. Okay. When you were discussing the new house</p> <p>18 with your father, did you guys talk about the</p> <p>19 plumbing at all?</p> <p>20 A. (Shaking head negatively.)</p> <p>21 No. Sorry.</p> <p>22 Q. It's okay.</p> <p>23 And do you understand that at some point,</p> <p>24 your house -- excuse me. Do you understand that your</p> <p>25 father installed PEX plumbing in your house?</p>

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<p style="text-align: right;">Page 14</p> <p>1 A. Yes.</p> <p>2 Q. As part of the original construction?</p> <p>3 A. Yes.</p> <p>4 Q. Had you ever heard of PEX plumbing before?</p> <p>5 A. No.</p> <p>6 Q. Okay. So to your knowledge, did your father</p> <p>7 pick out that material for your house?</p> <p>8 A. Yes.</p> <p>9 Q. Do you understand -- have an understanding of</p> <p>10 what PEX plumbing is, P-E-X?</p> <p>11 A. As in?</p> <p>12 Q. Like, what it -- what does that mean, what is</p> <p>13 PEX plumbing?</p> <p>14 A. No, not really.</p> <p>15 Q. Okay. Do you have an understanding that</p> <p>16 NIBCO, who I'm representing here today, is a</p> <p>17 manufacturer of PEX plumbing materials?</p> <p>18 A. Yes, I understand that.</p> <p>19 Q. Okay. Have you ever seen the tubing or the</p> <p>20 piping in your house?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Is it, like, red and blue?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And it had -- did it have any sort of</p> <p>25 stamp on it?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Okay. Do you know what kind of fittings were</p> <p>2 installed in your home?</p> <p>3 A. What do you mean by that?</p> <p>4 Q. Okay. Were they made of metal or plastic?</p> <p>5 A. It depended -- I'm not -- like, they were</p> <p>6 metal, gold-looking metal things.</p> <p>7 Q. So best you know, they were kind of a gold in</p> <p>8 color. Do you know if they were manufactured by</p> <p>9 NIBCO?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. Okay. During the construction phase of your</p> <p>12 house, did you have the opportunity to observe the</p> <p>13 house as it was being put together, essentially?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So you saw -- did you ever see, during</p> <p>16 the construction phase, the red and blue pipes in</p> <p>17 your house before, like, it was Sheetrocked or</p> <p>18 drywall was put up?</p> <p>19 A. Yes.</p> <p>20 Q. Where are the water heaters in your house?</p> <p>21 A. In the attic.</p> <p>22 Q. And I understand you have two water heaters.</p> <p>23 Is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have gas or electric water heaters?</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And was it -- do you recall what you</p> <p>3 saw on the tube?</p> <p>4 A. NIBCO, in capital letters.</p> <p>5 Q. Okay. I just want to make sure that we're on</p> <p>6 the same page so that we're talking about the same</p> <p>7 thing. Is that okay?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Okay. Do you understand that other companies</p> <p>10 also manufacture PEX tubing?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So PEX, P-E-X, is just a generic term</p> <p>13 for a type of tubing, and that NIBCO in particular</p> <p>14 manufactures a particular brand of materials. Does</p> <p>15 that make sense to you?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know what kind of -- do you know what</p> <p>18 a fitting is, a plumbing fitting?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And what, in your understanding, is a</p> <p>21 fitting?</p> <p>22 A. What connects it.</p> <p>23 Q. Okay. So you mean to say that a fitting is</p> <p>24 what connects two pieces of piping together?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 17</p> <p>1 A. I have no idea.</p> <p>2 Q. Have you ever -- do you know what the</p> <p>3 settings are on your water heater, like what the</p> <p>4 temperature is set to?</p> <p>5 A. No.</p> <p>6 Q. Have you ever gone up and messed with the</p> <p>7 settings on your water heater?</p> <p>8 A. No.</p> <p>9 Q. Do you know whether your husband has ever</p> <p>10 done that?</p> <p>11 A. No.</p> <p>12 Q. So for all you know, the settings on your</p> <p>13 water heaters were what they were when they were</p> <p>14 originally installed?</p> <p>15 A. Yes.</p> <p>16 Q. And correct me if I'm wrong, but the water</p> <p>17 heaters in your house are in the attic. Is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And how many stories is your house?</p> <p>21 A. Two.</p> <p>22 Q. Okay. So the ground floor, a second level,</p> <p>23 and then an attic above that, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And then, again, the water heaters</p>

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<p style="text-align: right;">Page 18</p> <p>1 are --</p> <p>2 A. No. Wait. Say that again.</p> <p>3 Q. Okay. Is there a ground floor?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then a second level?</p> <p>6 A. Yes.</p> <p>7 Q. And then there's an attic above the second</p> <p>8 level?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 A. But we have two attics.</p> <p>12 Q. Okay. Please explain.</p> <p>13 A. We have a ground floor, and there's an attic</p> <p>14 over our garage. And then there's an upstairs, and</p> <p>15 an attic above that.</p> <p>16 Q. Okay. So your garage is one level and it's</p> <p>17 on the same level as the ground floor of your house,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And there's an attic space above the garage,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Which attic are the water heaters in?</p> <p>24 A. The one above the garage.</p> <p>25 Q. Okay. So the water heaters are technically</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 A. And my husband.</p> <p>4 Q. Do you know what type of plumbing you had in</p> <p>5 your previous house in Bells?</p> <p>6 A. No.</p> <p>7 Q. You don't know whether it was copper or PEX,</p> <p>8 for example?</p> <p>9 A. No.</p> <p>10 Q. Okay. In that -- in your house in Bells or</p> <p>11 in any previous residence, have you ever had any</p> <p>12 plumbing issues?</p> <p>13 A. No.</p> <p>14 Q. So when did you learn that your house on</p> <p>15 Highway 79 had PEX plumbing in it?</p> <p>16 A. I'm not sure what you're asking me.</p> <p>17 Q. Okay. Well, you described to me that you</p> <p>18 just would kind of observe generally the construction</p> <p>19 of the house. Could you tell when you observed it</p> <p>20 that you had PEX plumbing in it because the walls</p> <p>21 weren't up yet or did you -- did that mean anything</p> <p>22 to you?</p> <p>23 A. I mean, I saw red and blue piping.</p> <p>24 Q. Right.</p> <p>25 Did you understand that to be PEX at the time</p>
<p style="text-align: right;">Page 19</p> <p>1 on the second level of your house because they're on</p> <p>2 the same plane or the same level as the second level</p> <p>3 of the living area; is that correct?</p> <p>4 A. I don't really understand.</p> <p>5 Q. Okay. That's fair enough.</p> <p>6 When was the first you learned -- let me back</p> <p>7 up.</p> <p>8 During the construction phase of your house,</p> <p>9 did you have any conversations with your father about</p> <p>10 the plumbing that he was installing?</p> <p>11 A. Not really.</p> <p>12 Q. Okay. What do you mean, not really? Like</p> <p>13 you might have talked to him about it?</p> <p>14 A. No. I don't really think I did. I can't</p> <p>15 really remember. But you know, I would go out there</p> <p>16 and look while it was building. My daughter was,</p> <p>17 like, three, and she was running around, and I'd be,</p> <p>18 like, look, here's our house. But that's about it.</p> <p>19 You know, I didn't really pay any attention. It</p> <p>20 wasn't really relevant to me.</p> <p>21 Q. So you entrusted your father with picking out</p> <p>22 the materials for the house; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. That would include the plumbing and</p> <p>25 other aspects of the house?</p>	<p style="text-align: right;">Page 21</p> <p>1 or was it later that you learned what PEX is?</p> <p>2 A. I'm still not really certain what -- I mean,</p> <p>3 I don't know what you're asking.</p> <p>4 Q. Okay. Well, I'm just trying to understand</p> <p>5 when you first discovered that PEX as a material was</p> <p>6 in your house. Some people know that because they</p> <p>7 picked it out; some people know because they found it</p> <p>8 out later. I'm just trying to understand when you</p> <p>9 discovered that.</p> <p>10 A. I don't think I really have a definite</p> <p>11 answer. I guess when it started leaking would be</p> <p>12 when I figured out, you know, something is wrong.</p> <p>13 Q. Okay.</p> <p>14 A. That would be when I figured it out.</p> <p>15 MS. STEPHENS: Let me hand you what we'll</p> <p>16 mark as Cole Exhibit 1.</p> <p>17 (WHEREUPON, the above-mentioned document</p> <p>18 was marked as Exhibit Number 1.)</p> <p>19 BY MS. STEPHENS:</p> <p>20 Q. Go ahead and take a look at Exhibit 1 for me,</p> <p>21 please.</p> <p>22 A. (Witness reviews document.)</p> <p>23 Q. Have you ever seen this defendant's notice of</p> <p>24 deposition of Kimberly Cole before?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 22</p> <p>1 Q. Okay. And this is just, I'll represent to</p> <p>2 you, what -- you know, the notice that we sent to</p> <p>3 your counsel that notices of your deposition, but I</p> <p>4 wanted to direct your attention to the first page,</p> <p>5 the top part. You see a bunch of names and -- we</p> <p>6 call that a caption. Do you see that part?</p> <p>7 A. Yes.</p> <p>8 Q. And do you see your name there listed first,</p> <p>9 Kimberly Cole?</p> <p>10 A. Yes.</p> <p>11 Q. And then Alan Cole is your husband, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Do you recognize any of the other</p> <p>14 names that are listed there?</p> <p>15 A. No.</p> <p>16 Q. Okay. If you look at the last page of</p> <p>17 Exhibit 1, there's some various attorneys listed</p> <p>18 there. Do you recall whether any of the attorneys</p> <p>19 listed there was the first person that you contacted</p> <p>20 regarding your leaks?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And who is that?</p> <p>23 A. Joseph Sauder.</p> <p>24 Q. And how did you find Mr. Sauder's name?</p> <p>25 A. On the internet.</p>	<p style="text-align: right;">Page 24</p> <p>1 a potential class representative. I just wanted you</p> <p>2 to explain to me what your understanding is of that</p> <p>3 role.</p> <p>4 A. That I represent a group as a whole.</p> <p>5 Q. Okay. Did you sign any sort of engagement</p> <p>6 letter or agreement with your counsel related to this</p> <p>7 lawsuit?</p> <p>8 A. No.</p> <p>9 Q. Okay. So you don't know what the -- do you</p> <p>10 know what the terms of your engagement are with your</p> <p>11 counsel?</p> <p>12 A. I'm not really certain what you're asking.</p> <p>13 Q. Okay. So when you decided to hire Mr. Sauder</p> <p>14 and his firm or anyone else that's listed here, did</p> <p>15 you have to sign any sort of an agreement with them?</p> <p>16 A. No, I don't think so. I don't really know</p> <p>17 what you're saying. What kind of agreement?</p> <p>18 Q. Did you have to sign anything? Did they send</p> <p>19 you something and say, hey, sign here, and we're</p> <p>20 officially hired and we'll represent you?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. You did sign something like that?</p> <p>23 A. Yes.</p> <p>24 Q. Sometimes we call that -- and I don't know</p> <p>25 what form it took. Sometimes it's called an</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. And do you recall exactly where on the</p> <p>2 internet you found Mr. Sauder's name?</p> <p>3 A. Yes. On a site when I was researching why I</p> <p>4 was having so many leaks.</p> <p>5 Q. When did you do that research?</p> <p>6 A. Oh, my goodness. Years ago. Probably -- I</p> <p>7 can't give you a definite answer, but around about</p> <p>8 maybe the third or fourth leak, maybe, when I</p> <p>9 recognized something was going on.</p> <p>10 Q. Do you recall when you officially hired an</p> <p>11 attorney in this case?</p> <p>12 A. Not a specific date, no.</p> <p>13 Q. Okay. Do you have an understanding of what</p> <p>14 your role is as a class representative or potential</p> <p>15 class representative in this case?</p> <p>16 A. Yes.</p> <p>17 Q. And what is your understanding of that role?</p> <p>18 MR. KENNEY: Object to the extent it</p> <p>19 calls for a legal conclusion, but you can answer to</p> <p>20 the extent you know.</p> <p>21 THE WITNESS: Can you ask the question</p> <p>22 again?</p> <p>23 BY MS. STEPHENS:</p> <p>24 Q. Sure.</p> <p>25 You said you understand what your role is as</p>	<p style="text-align: right;">Page 25</p> <p>1 engagement letter; sometimes it's called a retention</p> <p>2 agreement. Do you know what the terms of your</p> <p>3 agreement with your counsel are regarding this</p> <p>4 lawsuit?</p> <p>5 A. Yes.</p> <p>6 Q. Does that agreement promise you any sort of</p> <p>7 bonus or anything to be a plaintiff in this case?</p> <p>8 A. No.</p> <p>9 Q. Do you understand that agreement to be a</p> <p>10 contingency agreement? Does that mean something to</p> <p>11 you?</p> <p>12 A. Yes.</p> <p>13 MS. STEPHENS: I'll hand you what we'll</p> <p>14 mark Cole Exhibit 2.</p> <p>15 (WHEREUPON, the above-mentioned document</p> <p>16 was marked as Exhibit Number 2.)</p> <p>17 BY MS. STEPHENS:</p> <p>18 Q. Now, Cole Exhibit 2 -- and please take a look</p> <p>19 at it.</p> <p>20 A. Oh, sorry.</p> <p>21 Q. And let me know when you're ready to answer</p> <p>22 questions. But for the record, I'll state this is a</p> <p>23 document entitled, Plaintiff Kimberly and Alan Cole's</p> <p>24 Objections and Responses to Defendant NIBCO, Inc.'s,</p> <p>25 First Set of Interrogatories.</p>

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<p style="text-align: right;">Page 26</p> <p>1 A. (Witness reviews document.)</p> <p>2 I suppose I'm ready.</p> <p>3 Q. Okay.</p> <p>4 A. Am I supposed to read this?</p> <p>5 Q. Well, that's my first question, is, have you</p> <p>6 ever seen this before?</p> <p>7 MR. KENNEY: You can flip through if you</p> <p>8 want.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MS. STEPHENS: Yeah. Please take your</p> <p>11 time.</p> <p>12 MR. KENNEY: Do you need any water?</p> <p>13 THE WITNESS: Yes.</p> <p>14 MR. KENNEY: Okay. The information</p> <p>15 you're looking for starts on Page 3.</p> <p>16 THE WITNESS: Okay. Here we go. Thank</p> <p>17 you.</p> <p>18 Yes, I've seen this. I've seen so much.</p> <p>19 BY MS. STEPHENS:</p> <p>20 Q. Fair enough.</p> <p>21 So do you believe you provided some of the</p> <p>22 information that's in this document?</p> <p>23 A. Yes.</p> <p>24 Q. And do you see on the last -- I think it's</p> <p>25 the last page of Exhibit 2, you'll see a verification</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Yes.</p> <p>2 Q. Okay. This is a three-page document. And</p> <p>3 just so you know, those numbers at the bottom are</p> <p>4 what we call Bates labels for attorneys. They're</p> <p>5 just a way for us to keep track of documents that we</p> <p>6 produce to one another. And that Cole designation</p> <p>7 there signifies that that document was produced to me</p> <p>8 by your counsel. Okay?</p> <p>9 A. Uh-huh.</p> <p>10 Q. Understand that? Yes or no?</p> <p>11 A. Yes. I'm sorry.</p> <p>12 Q. That's okay.</p> <p>13 Does Cole Exhibit 3 look familiar to you?</p> <p>14 That -- there's a form on top, and then, I think, two</p> <p>15 e-mails behind it.</p> <p>16 A. (Witness reviews document.)</p> <p>17 Yes.</p> <p>18 Q. Does Exhibit 3 help refresh your recollection</p> <p>19 at all about when you might have first heard of NIBCO</p> <p>20 or when you started researching NIBCO?</p> <p>21 A. I don't really know what you're asking.</p> <p>22 Q. Okay. Well, you were trying to remember</p> <p>23 earlier about when you'd first heard of NIBCO, and</p> <p>24 you kind of generally said when you started having</p> <p>25 leaks.</p>
<p style="text-align: right;">Page 27</p> <p>1 and some signatures.</p> <p>2 A. Yeah. Yes.</p> <p>3 Q. Is that your signature above Kimberly Cole?</p> <p>4 A. Yes.</p> <p>5 Q. And it's dated October 20th, 2015?</p> <p>6 A. Yes.</p> <p>7 Q. And do you recognize your husband's signature</p> <p>8 below that?</p> <p>9 A. Yes.</p> <p>10 Q. Could you turn to Page 10 of Exhibit 2,</p> <p>11 please. See Question Number 20, and then the answer</p> <p>12 below it? Take your time and review it, please, and</p> <p>13 then I'll ask you a couple questions.</p> <p>14 A. (Witness reviews document.)</p> <p>15 Q. Are you ready?</p> <p>16 A. Yes.</p> <p>17 Q. I'm going to hand you what I'm going to mark</p> <p>18 as Cole Exhibit 3 because it's related to my</p> <p>19 question.</p> <p>20 (WHEREUPON, the above-mentioned document</p> <p>21 was marked as Exhibit Number 3.)</p> <p>22 BY MS. STEPHENS:</p> <p>23 Q. Now, Cole Exhibit 3 is three pages of</p> <p>24 documents. Do you see the numbering at the bottom,</p> <p>25 which says, Cole, and then, 574?</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Yes.</p> <p>2 Q. So based on Exhibit 2, that response that you</p> <p>3 gave, you were in contact with NIBCO at some time,</p> <p>4 and I believe it says that you -- the dates of those</p> <p>5 contacts would be reflected in the documents that</p> <p>6 we've been given. Are these -- is this form and</p> <p>7 these e-mails what you're referring to in that</p> <p>8 response?</p> <p>9 A. You mean, as far as the first time I</p> <p>10 contacted them?</p> <p>11 Q. Well -- sure, yes.</p> <p>12 A. Then yes.</p> <p>13 Q. Okay. Do you think before you had contacted</p> <p>14 NIBCO you had heard of them before that time? I'm</p> <p>15 trying to figure out when you started --</p> <p>16 A. No, I've never -- no.</p> <p>17 Q. Okay. So you think maybe in this, like,</p> <p>18 April or March 2012 time frame is when you first</p> <p>19 heard of NIBCO specifically?</p> <p>20 A. Yes.</p> <p>21 Q. Before contacting NIBCO, how many leaks had</p> <p>22 you had in the plumbing in your house? Could you</p> <p>23 say?</p> <p>24 A. I can't give you an accurate answer. It was</p> <p>25 three or four.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Q. Okay. Is there a document that would help 2 you answer my question more accurately? 3 A. No. 4 Q. Do you recall when the first leak was in your 5 house? 6 A. Not off the top of my head. 7 Q. Do you remember what year it was in? 8 A. Yes. 9 Q. What year? 10 A. 2010. 11 Q. Do you know where that leak was? 12 A. Yes, in my kitchen. 13 Q. Where exactly in your kitchen? 14 A. Under the -- like, by the dishwasher and 15 kitchen sink. 16 Q. Did that leak cause any damage to your home? 17 MR. KENNEY: Object to the extent it 18 calls for a legal conclusion or expert testimony, but 19 you can answer if you know. 20 THE WITNESS: Yes. 21 BY MS. STEPHENS: 22 Q. What kind of damage to your home did that 23 leak cause? 24 MR. KENNEY: Same objections, but you can 25 still answer.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. My husband was out of town, and I just jumped 2 up out of the bed and ran and just stood there and 3 looked around. You know, I was a little in shock. 4 Q. Did you then call someone to help you fix 5 your plumbing? 6 A. Yes. 7 Q. Who did you call? 8 A. My dad. 9 Q. And what did your dad do? 10 A. He came and shut the water off and told me to 11 call my insurance company, and he had shop vacs and 12 just started sucking the water out. 13 Q. And your insurance company is? 14 A. Allstate. 15 Q. Allstate. 16 A. At that time. 17 Q. Who is your current home insurance through? 18 A. La Grange. 19 Q. L-a-G-r-a-n-g-e? 20 A. Yes. 21 Q. When did that change? 22 A. Last month. 23 Q. So at the beginning of this year, you changed 24 home insurance to La Grange. Why did you change home 25 insurance companies?</p>
<p style="text-align: right;">Page 31</p> <p>1 THE WITNESS: A lot. 2 BY MS. STEPHENS: 3 Q. Can you please explain further? 4 A. What do you mean, as far as damage? 5 Q. Well, if it was a lot of damage, I would 6 assume -- 7 A. Like, over \$10,000 worth of damage. 8 Q. And what exactly was damaged? 9 A. My entire downstairs. The floors, the walls, 10 the baseboards. 11 Q. The kitchen is on the first level of your 12 house? 13 A. Yes, ma'am. 14 Q. And you said this leak was near the kitchen 15 sink? 16 A. By the kitchen sink and dishwasher. 17 Q. Okay. How did you discover this leak? 18 A. My son woke me up. 19 Q. Okay. And what did your son tell you? 20 A. He was screaming in my face, telling me, Mom, 21 our whole downstairs is full of water. 22 Q. So the -- was the water on the floor of your 23 kitchen? Is that correct? 24 A. The entire downstairs, yeah. 25 Q. What did you guys do after that?</p>	<p style="text-align: right;">Page 33</p> <p>1 A. Because I could no longer afford the 2 \$5,000-a-year insurance policy for my home. 3 Q. So your home insurance, had it always cost 4 \$5,000 a year? 5 A. Absolutely not. 6 Q. Okay. When did you first get home insurance 7 through Allstate for your house on Highway 79? 8 A. When I first built it. I've always had 9 Allstate. 10 Q. So for at least -- so you had Allstate before 11 that, but then when you moved into your new house in 12 May 2009, you had it insured through Allstate again; 13 is that correct? 14 A. Yes, ma'am. 15 Q. Do you recall what your premiums were the 16 first year? 17 A. Around \$1,200. 18 Q. And you said that that premium had risen to 19 \$5,000 last year? 20 A. No. After the first three claims. 21 Q. So when did the premium -- what do you mean, 22 after the first three claims? 23 A. After the first three claims, my homeowners 24 went up to almost \$5,000, relatively. 4,000-some-odd 25 dollars.</p>

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<p style="text-align: right;">Page 34</p> <p>1 Q. Okay. So in 2013, maybe? Is that when it 2 went up to that? 3 A. I don't know for sure. 4 Q. What is your current premium for your La 5 Grange policy? 6 A. \$2,400. Around that. 7 Q. Is it the same coverage you had through 8 Allstate? 9 A. No. 10 Q. How is it different? 11 A. For Allstate, we had two claims come off, and 12 it was 20 -- went down to \$2,500, somewhere around 13 that, with a \$5,000 deductible if anything happened. 14 For La Grange, we have a \$1,000 deductible. 15 Q. So at the end of your coverage with Allstate, 16 you had a higher deductible? 17 A. Yes. 18 Q. Okay. And that deductible was \$5,000? 19 A. Yes. 20 Q. To the extent you understand, is the 21 coverage, other than the deductibles and the 22 premiums, is the coverage essentially the same 23 between the two policies? 24 A. Yes. It's probably a little better with La 25 Grange because there's actually claims falling off.</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Yes. 2 A. My father. 3 Q. Okay. Do you know what he did? 4 A. As in? 5 Q. How did he fix the leak? 6 A. No, I have no idea. 7 Q. Was the leak on the hot water side? 8 A. Yes. 9 Q. Do you know what actual -- where the pipe was 10 that he found to be leaking? 11 A. No, not really. 12 Q. You just know it was near the kitchen sink 13 area? 14 A. Yes. 15 Q. Was it accessible under the kitchen sink or 16 was it in the wall? 17 A. Like -- not really. I mean, it was close to 18 the wall, but it's, like, behind a -- no. Really, I 19 don't know. I'm just... 20 Q. Okay. Did he have to open up a wall to fix 21 it or do you -- under the kitchen sink? 22 A. I think it was already open. Like, it was in 23 that area. 24 Q. Okay. So your dad fixed the actual plumbing, 25 and then do you end up making -- you did make a claim</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. What do you mean, claims falling off? 2 A. With any insurance, you know, there's a five- 3 to seven-year -- in case you have claims. After the 4 third claim, we didn't claim anything else. 5 Q. And that was because you didn't want more 6 claims on your insurance? 7 A. Yes. 8 Q. So by the time you switched to La Grange, you 9 believe some of your insurance claims that you made 10 through Allstate had fallen off the report. Is that 11 your understanding? 12 A. Yes. 13 Q. Would that include the 2012 claims? 14 A. March 2012? 15 Q. Yeah. 16 A. No. They come off in March of 2017. 17 Q. Okay. So your first claim that we've been 18 talking about that was related to the 2010 leak, that 19 came off? 20 A. Yes. That was how I was able to get another 21 carrier this year. 22 Q. Let's go back to that 2010 leak. Did your -- 23 I know you said that you called your insurance 24 company, but who fixed the actual plumbing issue? 25 A. On the first one?</p>	<p style="text-align: right;">Page 37</p> <p>1 to Allstate, correct? 2 A. Yes. 3 Q. Okay. And you said you got about \$10,000 out 4 of that claim, correct? 5 A. (Nodding head affirmatively.) 6 Q. Yes or no? 7 A. Yes. Sorry. 8 Q. Did that claim cover the extent of the damage 9 to your home and your belongings? 10 A. Yes. 11 Q. So your house was, for lack of a better 12 phrase, back to normal after that cleanup and that 13 repair was done? 14 A. Yes. 15 Q. At the time of this leak in November 2010, 16 did you have any discussions with your dad about the 17 plumbing in your house? 18 A. No. 19 Q. Did you have any discussions with the 20 insurance company about the plumbing in your house? 21 A. What do you mean, like what happened? Or as 22 far as? 23 Q. Yeah. 24 A. Why did this happen? 25 Q. Right. For example.</p>

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<p style="text-align: right;">Page 38</p> <p>1 A. No. I just -- you know, not -- no, not 2 really. I just thought it was a fluke. You know, 3 something just happened. 4 Q. Okay. So you don't believe at the time of 5 this 2010 leak you were aware that there was NIBCO 6 products in your house? 7 A. Do you mean -- when you're asking me that, do 8 you mean, like, NIBCO products, like the specific 9 company? Like, did I say, oh -- 10 Q. That's a great question. 11 A. Yeah. 12 Q. I want to make sure we're on the same page 13 today. When I'm referring to NIBCO, yes, I mean 14 specifically NIBCO products. When I'm referring to 15 just PEX, I mean more generally the product type. 16 Again, do you understand that more than one company 17 has manufactured PEX tubing? 18 A. Yes. And at that point, NIBCO was irrelevant 19 to me. I didn't know what NIBCO was at that time. 20 Q. Okay. Great. And again, thank you for 21 clarifying. 22 A. I wasn't certain what you were saying. 23 Q. We'll all have a better time today if we make 24 sure we understand. 25 A. Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Yes. 2 Q. Do you recall why you typed up this document? 3 A. Yes. I had a bunch of video -- I took videos 4 and did them as I went, so I was trying to get an 5 idea of just how many I had. So I went back with my 6 videos to try to get a round-about idea of how many, 7 because after this one (indicating), after November 8 and March, we didn't do any more. 9 Q. What do you mean, after November and March 10 you didn't do any more? 11 A. I didn't have any with insurance companies, 12 so... 13 Q. So this was your attempt to track the 14 approximate dates and locations of the leaks in your 15 house? 16 A. Yes. 17 Q. And what documents did you refer to, to come 18 up with this list? Just the videos? 19 A. My -- yes, and my handwritten stuff I had. 20 Receipts, documents. All my documents I had. 21 Q. And I've been produced in this case some 22 copies of, like, a journal or a calendar. 23 A. Uh-huh. 24 Q. Those are your notes? 25 A. Yes.</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Okay. Do you recall when the next leak was 2 in your home after that 2010 leak? 3 A. I believe in March, but I can't -- I'd have 4 to look at my stuff, but I think it was March. 5 Q. Okay. I just wanted to start there, but I'm 6 going to hand you an exhibit. 7 A. Okay. 8 MS. STEPHENS: This is marked Kimberly 9 Cole Exhibit 4. 10 (WHEREUPON, the above-mentioned document 11 was marked as Exhibit Number 4.) 12 BY MS. STEPHENS: 13 Q. Do you recognize Kimberly Cole Exhibit 4? 14 A. (Witness reviews document.) 15 Yes. 16 Q. Did you prepare this document? 17 A. Yes. 18 Q. Okay. And this is a typed-up document, and 19 it has a title at the top called, Cole Leaks, 20 correct? 21 A. Yes. 22 Q. And when did you type this document up? 23 A. Oh, I don't even remember. I have no idea. 24 Several months ago. 25 Q. So it was after this lawsuit was filed?</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Okay. Now, we see here on Exhibit 4 there's 2 actually a listing for a leak at the end of 2009. Do 3 you see that? 4 A. Yes. 5 Q. Okay. So does this refresh your recollection 6 about perhaps maybe you had a previous leak before 7 November 2010? 8 A. Oh, yes. But that, to me, was -- that wasn't 9 a claim. That was something Alan did on his own. 10 Q. Okay. Can you recall the circumstances of 11 that leak that is indicated here as being the end of 12 2009? 13 A. No. 14 Q. Okay. It says something about the showerhead 15 in the master bath. Do you recall that? 16 A. No. 17 Q. So maybe I should ask Alan? 18 A. Yes. I remember it happening, but I didn't 19 know anything -- I can't give you any details about 20 it. 21 Q. Okay. So after the leak in November 2010, 22 this indicates two leaks in March 2012; is that 23 correct? 24 A. Yes. 25 Q. And both of those were related -- ended up</p>

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<p style="text-align: right;">Page 42</p> <p>1 being related to an insurance claim; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Can you talk about the first March 2010 --</p> <p>4 2012 leak listed there, please? How did you discover</p> <p>5 that leak?</p> <p>6 A. It's so hard to remember, to be honest. I</p> <p>7 mean, it's happened so many times and there's so</p> <p>8 many. As you can see, if you go down to October,</p> <p>9 there's master -- I mean, it's just so much in the</p> <p>10 same spots. I can't give you -- I can't give you</p> <p>11 definite. I think we woke up that morning and the</p> <p>12 floor was squishy. I think, but I'm not certain.</p> <p>13 I'm pretty sure the floor was squishy, and I looked</p> <p>14 up and it was pouring out of the ceiling.</p> <p>15 Q. Is the master bedroom upstairs?</p> <p>16 A. No, it's downstairs.</p> <p>17 Q. It's downstairs.</p> <p>18 A. (Nodding head affirmatively.)</p> <p>19 Q. So you had water in the ceiling of your</p> <p>20 master bedroom, you think?</p> <p>21 A. Yep.</p> <p>22 Q. Again, this indicates -- this typed-up list</p> <p>23 says: Hot water split.</p> <p>24 A. Yep. Yes. Sorry.</p> <p>25 Q. Do you recall what you did after discovering</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Yes.</p> <p>2 Q. What color?</p> <p>3 A. Red.</p> <p>4 Q. And what did -- can you describe to me what</p> <p>5 he showed you that the leak looked like?</p> <p>6 A. Yeah. It was a little bitty, white mark on</p> <p>7 it. I'd have to show you with a pen what it looked</p> <p>8 like.</p> <p>9 Q. Okay. Was the -- what do you mean, a mark?</p> <p>10 Was it a split, in your observation?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Did the split run across the tube or</p> <p>13 along the tube?</p> <p>14 A. Along.</p> <p>15 Q. Okay.</p> <p>16 A. I think. If that's what you're asking me.</p> <p>17 Along (indicating).</p> <p>18 Q. Like, horizontally along the tube?</p> <p>19 A. Yes.</p> <p>20 Q. Instead of around the tube?</p> <p>21 A. Yeah. No, it was not around.</p> <p>22 Q. Okay. Do you know what happened to that pipe</p> <p>23 that the plumber from Jackson Plumbing removed?</p> <p>24 A. You mean, like, after that? Like, where is</p> <p>25 it?</p>
<p style="text-align: right;">Page 43</p> <p>1 this leak in March 2012, in the master bedroom</p> <p>2 ceiling?</p> <p>3 A. I woke him up and...</p> <p>4 Q. Did you call someone to fix the leak again?</p> <p>5 A. Yes.</p> <p>6 Q. Did you call your father?</p> <p>7 A. No.</p> <p>8 Q. Okay. Who did you call to fix this leak in</p> <p>9 March 2012, in the master bedroom?</p> <p>10 A. I called my insurance company, and they</p> <p>11 called Jackson Backhoe & Plumbing.</p> <p>12 Q. So you called Allstate, and Allstate sent out</p> <p>13 a plumber from Jackson Backhoe; is that correct?</p> <p>14 A. And Plumbing. Uh-huh.</p> <p>15 Q. Do you know what Jackson Backhoe did to</p> <p>16 repair this hot water line split?</p> <p>17 A. I just know they fixed it.</p> <p>18 Q. Okay. Did you have any conversation with the</p> <p>19 plumber from Jackson Plumbing about the leak?</p> <p>20 A. As in -- I mean, he showed it to me and</p> <p>21 showed me the piece that he took out and said, Right</p> <p>22 here is where it happened. And he showed me what it</p> <p>23 looked like. And he said -- you know, pointed up</p> <p>24 there and he said, I fixed it right there.</p> <p>25 Q. Okay. Do you recall what color the pipe was?</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Yeah. Did you keep it?</p> <p>2 A. No.</p> <p>3 Q. Did he take it?</p> <p>4 A. No.</p> <p>5 Q. What happened to it?</p> <p>6 A. Allstate took it.</p> <p>7 Q. Do you know what Allstate did with the pipe?</p> <p>8 A. That day, no. I don't think they took it</p> <p>9 that day, to be honest.</p> <p>10 Q. So at some point, Allstate acquired it?</p> <p>11 A. Yeah. They -- I gave it to them at some</p> <p>12 point. They asked me for it.</p> <p>13 Q. At this point, after this March 2012 leak in</p> <p>14 the master bedroom, did you -- is that perhaps when</p> <p>15 you first heard of NIBCO specifically?</p> <p>16 A. After the master bedroom leak?</p> <p>17 Q. Yes.</p> <p>18 A. No. Probably the next one.</p> <p>19 Q. What damage to your house and belongings did</p> <p>20 this leak number two cause, if any?</p> <p>21 MR. KENNEY: Objection to the extent it</p> <p>22 calls for a legal conclusion or expert testimony, but</p> <p>23 you can answer as best you know.</p> <p>24 THE WITNESS: When you're asking that,</p> <p>25 what do you mean? Like, what did it damage?</p>

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<p style="text-align: right;">Page 46</p> <p>1 BY MS. STEPHENS:</p> <p>2 Q. Like -- I believe the water, you said, was in</p> <p>3 the ceiling of the master bedroom. Correct?</p> <p>4 A. Uh-huh.</p> <p>5 Q. Yes?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. What did you -- did you have to have</p> <p>8 repairs done to your house, as a result of that leak?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And what types of repairs were done?</p> <p>11 A. I can't recollect them all. It was quite a</p> <p>12 bit. But there's insurance documents that have been</p> <p>13 submitted that have a detailed list of all of that.</p> <p>14 Q. So to the extent that repairs were done to</p> <p>15 your home and things were replaced, it's documented</p> <p>16 in those insurance documents; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. To the extent damage was done to your</p> <p>19 home, as a result of that March 2012 leak in the</p> <p>20 master bedroom ceiling, was that fully covered by</p> <p>21 Allstate?</p> <p>22 A. Yes.</p> <p>23 Q. And at the time -- do you recall what your</p> <p>24 deductible was related to the November 2010 leak?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 48</p> <p>1 A. The same thing as before, called a...</p> <p>2 Q. Did they call Jackson Plumbing again?</p> <p>3 A. I think so, but I can't -- I'd have to look</p> <p>4 at the documents again. I can't remember.</p> <p>5 Q. So a plumber of some sort came out and fixed</p> <p>6 it, but that plumber was sent by Allstate?</p> <p>7 A. Yes, yes.</p> <p>8 Q. Do you know what the plumber did to fix this</p> <p>9 leak in the kitchen ceiling?</p> <p>10 A. The same as before.</p> <p>11 Q. Okay. Did -- for these two ceiling repairs,</p> <p>12 did they have to open up the ceiling?</p> <p>13 A. I think so, yes. Yes.</p> <p>14 Q. The master bedroom and the kitchen ceiling</p> <p>15 are both on the first floor of the house?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And so -- and there are rooms above</p> <p>18 them?</p> <p>19 A. Yes, yes.</p> <p>20 Q. So the plumbing, perhaps, to those runs</p> <p>21 between the floors, to the best of your knowledge?</p> <p>22 A. Yes, yes.</p> <p>23 Q. Do you recall whether this kitchen ceiling</p> <p>24 leak in March 2012, was on the hot water side or the</p> <p>25 cold water side?</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. How much was it?</p> <p>2 A. \$1,000.</p> <p>3 Q. Was it still \$1,000 in March of 2012?</p> <p>4 A. Yep. Yes.</p> <p>5 Q. Did you pay Jackson Plumbing to repair that</p> <p>6 leak in 2012?</p> <p>7 A. Yes.</p> <p>8 Q. Do you recall how much you paid them?</p> <p>9 A. No.</p> <p>10 Q. So the next leak on Exhibit 4 is listed in</p> <p>11 March 2012, as kitchen ceiling. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And do you recall how you discovered that</p> <p>14 particular leak?</p> <p>15 A. Well, it was, roughly, two days or three days</p> <p>16 or maybe even a day, I can't remember, but it was</p> <p>17 right there, right after -- it was somewhere close to</p> <p>18 around that area, at that time, I believe, somewhere.</p> <p>19 Q. So there was water -- you could observe water</p> <p>20 in the kitchen ceiling; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And what did you do after you discovered this</p> <p>23 particular leak?</p> <p>24 A. Called Allstate.</p> <p>25 Q. Okay. And what did Allstate do?</p>	<p style="text-align: right;">Page 49</p> <p>1 A. It was hot water.</p> <p>2 Q. Did you open a new claim with Allstate or did</p> <p>3 they consolidate the claims together in March 2012?</p> <p>4 A. No, they did not consolidate.</p> <p>5 Q. Okay. Did this kitchen ceiling leak cause</p> <p>6 damage to your home?</p> <p>7 A. Yes.</p> <p>8 MR. KENNEY: Object to the extent it</p> <p>9 calls for a legal conclusion or expert testimony, but</p> <p>10 you can answer.</p> <p>11 BY MS. STEPHENS:</p> <p>12 Q. Could you generally describe what happened,</p> <p>13 please.</p> <p>14 A. Yes. The same. It's on the documents. I</p> <p>15 can't remember, but yes, it caused damage to my</p> <p>16 kitchen.</p> <p>17 Q. Other than the deductible that you paid</p> <p>18 yourself -- did you pay another deductible for that</p> <p>19 particular damage?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Other than paying that deductible, was</p> <p>22 the damage fully paid for?</p> <p>23 A. Yes.</p> <p>24 Q. Who did the repairs for the November 2010</p> <p>25 leak, as far as the house repairs?</p>

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<p style="text-align: right;">Page 50</p> <p>1 A. I don't -- yeah, I do. I don't -- I don't</p> <p>2 remember who did what.</p> <p>3 Q. Okay. Was it --</p> <p>4 A. But I do have documents that show who did</p> <p>5 them, so...</p> <p>6 Q. Was it a company?</p> <p>7 A. Yeah, I do believe so.</p> <p>8 Q. Okay. What about the March 2012, repairs to</p> <p>9 the house? Did a company do those repairs?</p> <p>10 A. I do believe so.</p> <p>11 Q. Okay. Was there a time when you decided that</p> <p>12 rather than have an outside company do the repairs,</p> <p>13 you would just keep the money and do the repairs</p> <p>14 yourself?</p> <p>15 A. Some of it. We did the flooring and stuff</p> <p>16 ourselves because we had done -- like, the day</p> <p>17 before, Alan had installed some laminate flooring in</p> <p>18 the kitchen, and then the leak happened, so we just</p> <p>19 replaced it ourselves because we had done it</p> <p>20 ourselves anyway.</p> <p>21 Q. So you -- some of the repairs, you recall</p> <p>22 being done by a company, but some of them, you did do</p> <p>23 yourself?</p> <p>24 A. Yep.</p> <p>25 Q. Yes?</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Do you recall this leak in October</p> <p>3 2012, in the laundry room?</p> <p>4 A. Not really. I mean, yes, I do, but not</p> <p>5 really.</p> <p>6 Q. Do you know whether that was on the hot side</p> <p>7 or the cold side of the water?</p> <p>8 A. Hot side.</p> <p>9 Q. And did this leak in the laundry room, in</p> <p>10 October 2012, cause damage to the house?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And what damage was that?</p> <p>13 MR. KENNEY: Object to the extent it</p> <p>14 calls for a legal conclusion or expert testimony, but</p> <p>15 you can answer if you know.</p> <p>16 THE WITNESS: Can you say the question</p> <p>17 again?</p> <p>18 BY MS. STEPHENS:</p> <p>19 Q. What damage did this October 2012, laundry</p> <p>20 room leak cause to your house?</p> <p>21 MS. STEPHENS: And Joe, your objection is</p> <p>22 noted.</p> <p>23 THE WITNESS: I mean, ceiling, walls.</p> <p>24 BY MS. STEPHENS:</p> <p>25 Q. Did you have that damage repaired?</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 MR. KENNEY: And Rachel, whenever you're</p> <p>3 at a point, can we take a break?</p> <p>4 MS. STEPHENS: I was just saying we're</p> <p>5 going to jump in time, so why don't we take a break.</p> <p>6 (Short break.)</p> <p>7 BY MS. STEPHENS:</p> <p>8 Q. Mrs. Cole, we're back on the record. Do you</p> <p>9 understand that you're still under oath?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. During the break, did you recall anything</p> <p>12 about some of the answers you had already given this</p> <p>13 morning that you want to clarify or change?</p> <p>14 A. No.</p> <p>15 Q. Okay. When we stopped, we were getting ready</p> <p>16 to talk about the next leak after the March 2012</p> <p>17 leak. Now, according to Exhibit 4, that was in</p> <p>18 October 2012.</p> <p>19 A. Yes.</p> <p>20 Q. And that was in the laundry room?</p> <p>21 A. Yes.</p> <p>22 Q. Now, there's a little note that says: Now</p> <p>23 foyer to living room.</p> <p>24 Was there -- did you guys kind of change the</p> <p>25 layout of that area?</p>	<p style="text-align: right;">Page 53</p> <p>1 A. Yes.</p> <p>2 Q. Who repaired it?</p> <p>3 A. You know, actually, I can't remember their</p> <p>4 names, but it was -- what do you call people that</p> <p>5 come do that? I don't know what they're called.</p> <p>6 Q. Was it, like, a restoration service?</p> <p>7 A. You know, like, contract people who --</p> <p>8 Q. Like, a contractor? Handyman?</p> <p>9 A. Yeah. I don't know what they're -- Benard</p> <p>10 was his last name. That's all I know. I can't --</p> <p>11 that's what they do. You know, they go and repair</p> <p>12 Sheetrock and ceilings and stuff like that.</p> <p>13 Q. Did you also hire a plumber to come fix that</p> <p>14 leak?</p> <p>15 A. You know, I can't remember.</p> <p>16 Q. Would your husband maybe remember more about</p> <p>17 that?</p> <p>18 A. He may, but -- yeah. I'm pretty sure on this</p> <p>19 one -- you know, that's -- at that point, we were</p> <p>20 not, obviously, turning it in to our insurance</p> <p>21 company. I think I called my dad, actually, at that</p> <p>22 time, and these were guys he used within his company,</p> <p>23 and he came out with them and they all fixed it,</p> <p>24 because right after that was when we changed out the</p> <p>25 hot water line. So it was all in that process.</p>

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<p style="text-align: right;">Page 54</p> <p>1 Q. So through, maybe, your dad, a plumber came 2 out and fixed this laundry room leak, correct? 3 A. Yes. 4 Q. Did you pay for that repair? 5 A. Yes. 6 Q. Do you have an invoice for that repair? 7 A. Yes. 8 Q. Do you believe you turned that over? 9 A. Yes. 10 Q. Do you recall how much you paid? 11 A. No. 12 Q. What about the -- they also fixed the 13 Sheetrock and things like that, you said? 14 A. Yes. 15 Q. Was it the same people who did that repair? 16 A. (Nodding head affirmatively.) 17 Q. Is that a yes? 18 A. Yes. Sorry. 19 Q. Let's go back to the March 2012 leaks. If I 20 remember you correctly, you think after that second 21 March 2012, leak you ended up contacting NIBCO? 22 A. Yes. 23 Q. And how did you know to contact NIBCO in 24 particular? 25 A. Because I looked -- at that point is when I</p>	<p style="text-align: right;">Page 56</p> <p>1 this March 2012 leak in the kitchen ceiling, do you 2 know what happened to that section of pipe? 3 A. Which one are we talking about? 4 Q. The second leak in March 2012. 5 A. Yes. Allstate had it. 6 Q. So that one was also -- 7 A. Eventually, it was given to them. 8 Q. Given to Allstate? 9 A. Yes. 10 Q. And did you get that back eventually? 11 A. No. 12 Q. So that one, you didn't get back. Did you 13 get anything back from Allstate? 14 A. No. 15 Q. Did you request that they send those back to 16 you? 17 A. Yes. 18 Q. But they never did? 19 A. No. 20 Q. So you think after the second leak in March 21 2012, your dad then helped you figure out who to 22 contact; is that correct? 23 A. Yes. 24 Q. You mentioned that he believed he had 25 installed NIBCO products in other houses he built?</p>
<p style="text-align: right;">Page 55</p> <p>1 realized there's something wrong with this pipe. 2 This is not normal for this to keep happening. 3 Because it was actually in the pipe itself. It 4 wasn't, you know, somewhere -- it was -- the pipe was 5 busting, you know, so there's obviously something 6 wrong with it. So at that point is when my dad was 7 like -- you know, he didn't know what was going on 8 either, because he said, Well, this was something 9 that was supposed to be really good. And kind of -- 10 really -- he said, you know, I know this stuff has 11 a -- I think it was a 50-year warranty and a lifetime 12 warranty for some point. 13 Because I was really upset and had told him, 14 you know, We can't afford to put anything else on our 15 insurance; they're going to drop us. 16 And he said, Let's get in here and start 17 looking to figure out what's going on, and you know, 18 Call them, ask them. You know, They should pay to 19 replace this. 20 So at that point is when he started helping 21 me find out who I needed to contact. And he went 22 back and looked because he had it in some of the 23 other houses he had built, and he helped me find out 24 what it was. 25 Q. The section of pipe that was repaired for</p>	<p style="text-align: right;">Page 57</p> <p>1 A. Say that again. 2 Q. You said he mentioned that he had installed 3 NIBCO products in other houses? 4 A. Yeah. At that point, he was, like -- he 5 didn't know what was going on, you know, that he had 6 been told that this product -- you know, that's why 7 he had used this product, was because he had been 8 told that, you know, it had a 50-year warranty, a 9 lifetime warranty, and that it was supposed to be 10 really good. And obviously, there was something bad 11 wrong and we needed to figure out what was happening, 12 because I was really upset and had said that I 13 couldn't, you know, claim any more on my insurance. 14 And he said, you know, You need to contact them about 15 the warranty. 16 Q. And then is that the first you had heard 17 about whatever warranty there was related to the 18 plumbing in your house? 19 A. I think so. 20 Q. Do you know where your father bought the 21 NIBCO products that he installed in your home? 22 A. Yes. 23 Q. Where did he buy them? 24 A. Kenny Pipe. 25 Q. Now, my understanding is there's many Kenny</p>

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<p style="text-align: right;">Page 58</p> <p>1 Pipe locations in Tennessee. Do you know which</p> <p>2 particular location he bought it at?</p> <p>3 A. Jackson, Tennessee.</p> <p>4 Q. Do you know when he bought it?</p> <p>5 A. Do you mean, like, a specific date? No.</p> <p>6 Q. Just in general.</p> <p>7 A. No.</p> <p>8 Q. So your understanding is that your dad had</p> <p>9 been using NIBCO PEX tubing in other houses he had</p> <p>10 built?</p> <p>11 A. Yes.</p> <p>12 Q. And to that point, in March 2012, when you</p> <p>13 had this conversation with him, had he had leaks in</p> <p>14 other houses he had built?</p> <p>15 A. He had had a few, like one or two, and at</p> <p>16 that point is when he said something is wrong.</p> <p>17 Q. Since that conversation, do you know whether</p> <p>18 other homes that your dad built have had plumbing</p> <p>19 issues?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. How many houses? Do you know?</p> <p>22 A. I have no idea.</p> <p>23 Q. Do you know the names of any of those</p> <p>24 people --</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 60</p> <p>1 A. Yeah.</p> <p>2 Q. And do you recall who you spoke to?</p> <p>3 A. No. I don't recall the first person I spoke</p> <p>4 to.</p> <p>5 Q. Okay. If you look back at Exhibit, I think,</p> <p>6 3, do you see those e-mails on the second two pages</p> <p>7 of that exhibit?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Is that a yes?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Do you see -- I believe it's from a</p> <p>12 Jared?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Do you recall speaking with a Jared at</p> <p>15 NIBCO?</p> <p>16 A. Yes, but he was not the first person I spoke</p> <p>17 to.</p> <p>18 Q. That's what -- you anticipated my question.</p> <p>19 So you spoke to someone before Jared. Do you</p> <p>20 recall what you spoke to that person before Jared</p> <p>21 about?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And what did you -- what was that</p> <p>24 conversation?</p> <p>25 A. I was asking about the warranty.</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. -- who own those homes?</p> <p>2 So just based on what your father told you?</p> <p>3 A. Yes. Some of them are rental properties that</p> <p>4 he owns.</p> <p>5 Q. So you believe that some rental properties</p> <p>6 your father owned have had some plumbing issues; is</p> <p>7 that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know whether your dad has made any</p> <p>10 claims to NIBCO --</p> <p>11 A. I haven't asked him.</p> <p>12 Q. -- based on those leaks?</p> <p>13 A. (Shaking head negatively.)</p> <p>14 Q. You don't know?</p> <p>15 A. I don't know.</p> <p>16 Q. So what was your first contact with NIBCO?</p> <p>17 Was it via phone?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And who did you call?</p> <p>20 A. The warranty -- there's a -- I think, if my</p> <p>21 memory serves me right, that it was a number, a</p> <p>22 warranty number, like, you know, a customer service</p> <p>23 number or whatever.</p> <p>24 Q. Okay. So you called that. We'll just call</p> <p>25 it a customer service number for now.</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. And what did this NIBCO person tell you?</p> <p>2 A. Well, he asked me about an expansion tank,</p> <p>3 and I had no idea what an expansion tank was. And he</p> <p>4 asked me several other things, and he was very rude</p> <p>5 and he laughed at me on the telephone, and he was not</p> <p>6 helpful at all. That's about what I remember.</p> <p>7 Q. As a result -- how did you become -- get in</p> <p>8 contact with Jared at NIBCO?</p> <p>9 A. After I hung up the phone, if I recall</p> <p>10 correctly, because I really don't, because, to be</p> <p>11 honest, I was very upset with the way the phone call</p> <p>12 went -- I don't know if you've ever heard of an</p> <p>13 expansion tank, but I have not. We don't have those</p> <p>14 at our home, and I don't know much about stuff like</p> <p>15 that. So after I hung up, it may have been a few</p> <p>16 days later, I'm not really sure, but I know I started</p> <p>17 thinking, like, okay, don't let my feelings get the</p> <p>18 best of me, you know, get your intellect back</p> <p>19 together and call back and let them explain this to</p> <p>20 you; you know, ask more questions of, okay, now what</p> <p>21 do I need to do correctly? Because I mean, he</p> <p>22 basically spoke to me like, you know, you're dumb and</p> <p>23 we don't care and we've got to go. That's more or</p> <p>24 less how he spoke to me on the phone. And this is</p> <p>25 something that was an installation error and you're</p>

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<p style="text-align: right;">Page 62</p> <p>1 wasting your time, is how he spoke to me.</p> <p>2 So when I called back, this Jared, he was</p> <p>3 nicer, and he told me what I was going to have to do</p> <p>4 to -- you know, he told me I needed to send a piece</p> <p>5 of the pipe in. And I did ask him the process, and</p> <p>6 he explained the process to me.</p> <p>7 Q. Okay. So you believe a couple days after</p> <p>8 your initial call to NIBCO, you called the same</p> <p>9 number, and this time, you were connected to Jared?</p> <p>10 A. Yes.</p> <p>11 Q. Okay.</p> <p>12 A. And I told him how the guy behaved, as well.</p> <p>13 Q. And you see the e-mail there from Jared to</p> <p>14 you. And what's the date of that e-mail?</p> <p>15 A. March 5th, 2012.</p> <p>16 Q. Is it March or --</p> <p>17 A. No. Sorry. April 5th. Sorry.</p> <p>18 Q. It's okay. So on April 5th -- sorry.</p> <p>19 As reflected in Exhibit 3, on April 5th,</p> <p>20 2012, Jared sent you an e-mail; is that correct?</p> <p>21 A. Yeah. Yes.</p> <p>22 Q. And do you believe that there was an</p> <p>23 attachment to that e-mail and that's perhaps the</p> <p>24 first page of that exhibit?</p> <p>25 A. I have no idea.</p>	<p style="text-align: right;">Page 64</p> <p>1 was changed at some point?</p> <p>2 A. Yes.</p> <p>3 Q. As some sort of renumbering process?</p> <p>4 A. A 9-1-1 address change thing.</p> <p>5 Q. Right.</p> <p>6 A. Yes.</p> <p>7 Q. My family is from rural areas. That happens</p> <p>8 a lot.</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall receiving an e-mail from Jared?</p> <p>11 I mean, does that look familiar to you, that e-mail</p> <p>12 that is reflected in Exhibit 3?</p> <p>13 A. Yes.</p> <p>14 Q. And what did you do in response to receiving</p> <p>15 this e-mail?</p> <p>16 A. I don't remember. I don't think I replied --</p> <p>17 I don't think you could reply, actually. I don't</p> <p>18 think you could, like, say anything back. You know,</p> <p>19 like, I couldn't have a conversation with him.</p> <p>20 Q. You couldn't hit reply and send an e-mail</p> <p>21 back?</p> <p>22 A. No, uh-uh. Or maybe I did. Maybe I did and</p> <p>23 he never said anything back. I don't remember. I</p> <p>24 think maybe I did send him one back. Or maybe I</p> <p>25 didn't. I don't know. I can't remember. That's the</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. You're not sure.</p> <p>2 Could you look at that first page, please,</p> <p>3 and see if that -- do you recognize the first page of</p> <p>4 Exhibit 3? Does that look familiar to you?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And do you see at the top, on the</p> <p>7 right-hand corner, there's some information? Does it</p> <p>8 have your -- I think it has installing plumber on</p> <p>9 there.</p> <p>10 A. Uh-huh.</p> <p>11 Q. Do you see that?</p> <p>12 A. Where it says, Installer?</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. And what does it read?</p> <p>16 A. Blank.</p> <p>17 Q. Blank. Okay.</p> <p>18 But it has your address on there and your</p> <p>19 information?</p> <p>20 A. Yes. It has our old address.</p> <p>21 Q. That's your old address.</p> <p>22 A. Yes.</p> <p>23 Q. The one in Bells?</p> <p>24 A. No. It has 19150.</p> <p>25 Q. Okay. So it's -- the address to your home</p>	<p style="text-align: right;">Page 65</p> <p>1 truth, I can't remember.</p> <p>2 Q. So you don't recall one way or another</p> <p>3 whether you ended up sending anything back to --</p> <p>4 A. Oh, I know I didn't.</p> <p>5 Q. So you never sent product into NIBCO?</p> <p>6 A. No. They did not want -- they wanted the</p> <p>7 piece with the actual leak in it.</p> <p>8 Q. And at that time, did Allstate already have</p> <p>9 that piece?</p> <p>10 A. Yes. They had told me to send it to them.</p> <p>11 But I offered them a piece of -- at this time, when</p> <p>12 they had pulled out the -- we were having the main</p> <p>13 hot water lines replaced in our home, so I had other</p> <p>14 pieces of that pipe that had leaked already all those</p> <p>15 times before that's listed on here, and I offered</p> <p>16 NIBCO a piece of that pipe. And they -- Jared told</p> <p>17 me they could not take that.</p> <p>18 Q. I just want to make sure I understand what</p> <p>19 you're saying.</p> <p>20 So at the time that you were in contact with</p> <p>21 Jared in April 2012 --</p> <p>22 A. Yes.</p> <p>23 Q. -- you had in your possession other pieces of</p> <p>24 pipe that had leaked?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 66</p> <p>1 Q. Now, the two March 2012 leaks, you had</p> <p>2 already -- Allstate already had those?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And the November 2010 leak, you told</p> <p>5 me you don't know what happened to that?</p> <p>6 A. Yes. I told them we could get them other</p> <p>7 pieces of pipe.</p> <p>8 Q. Where were those other pieces from?</p> <p>9 A. In the house on that main hot water line.</p> <p>10 Q. Had they leaked at that time?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 A. But it was just, like, one piece. Where</p> <p>14 it -- like, the way it was leaking in our home, it</p> <p>15 came from the hot water heater, all the way down</p> <p>16 this -- like, it ran through our whole house. And</p> <p>17 every time a leak was happening, it was coming off</p> <p>18 that main piece of pipe. So I told him, you know, we</p> <p>19 can get you some of that, because they can come in</p> <p>20 and clip out and put another one. But he didn't want</p> <p>21 that. They only wanted the piece with the hole</p> <p>22 already in it.</p> <p>23 Q. Well, yeah. They wanted a piece that had</p> <p>24 been leaking.</p> <p>25 A. Yes. And I said, I don't have a piece that's</p>	<p style="text-align: right;">Page 68</p> <p>1 A. When you say "reaction," what do you mean?</p> <p>2 Q. Like, did he -- he explained what an</p> <p>3 expansion tank is, right? Did he explain that to</p> <p>4 you?</p> <p>5 A. A little bit, but not really. I didn't --</p> <p>6 you know, I just asked, do we have one? He was,</p> <p>7 like, no. I mean, he thought -- his reaction was he</p> <p>8 thought it was a rather stupid question.</p> <p>9 Q. Why is that?</p> <p>10 A. He just acted like it was irrelevant, like</p> <p>11 what difference did it make.</p> <p>12 Q. Do you believe after this e-mail that Jared</p> <p>13 sent you in April 2012, you had any other contact</p> <p>14 with NIBCO?</p> <p>15 A. No, I did not.</p> <p>16 Q. So if we're looking at Exhibit 4 and you've</p> <p>17 got a list of leaks, for all the leaks after October</p> <p>18 2012 -- or starting with October 2012, you never</p> <p>19 contacted NIBCO regarding those issues?</p> <p>20 A. Not that I recall.</p> <p>21 Q. With each of these other leaks, again,</p> <p>22 starting with October 2012, on down on Exhibit 4,</p> <p>23 have you had plumbers that come out and fix those</p> <p>24 leaks?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 67</p> <p>1 been leaking.</p> <p>2 Q. After this conversation -- well, perhaps the</p> <p>3 first conversation you had with NIBCO, where you</p> <p>4 heard the phrase "expansion tank" for the first time,</p> <p>5 you think?</p> <p>6 A. Yes.</p> <p>7 Q. Did you ask your dad or anyone else about</p> <p>8 what an expansion tank is?</p> <p>9 A. Yes.</p> <p>10 Q. Who did you ask?</p> <p>11 A. I think I asked my dad.</p> <p>12 Q. Okay. And did you ask whether you had one or</p> <p>13 not?</p> <p>14 A. Yes.</p> <p>15 Q. Does your house have an expansion tank?</p> <p>16 A. Uh-uh, no.</p> <p>17 Q. Okay. Do you know what a recirculation pump</p> <p>18 is?</p> <p>19 A. No.</p> <p>20 Q. Okay. When you turn on the water in your</p> <p>21 house, do you get hot water right away?</p> <p>22 A. No.</p> <p>23 Q. When you had this conversation with your dad</p> <p>24 about an expansion tank, did he have any reaction to</p> <p>25 that suggestion?</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Have you been fixing them yourself?</p> <p>2 A. Yes. Well, not me personally, no.</p> <p>3 Q. Well, who has been fixing them?</p> <p>4 A. My dad and my husband.</p> <p>5 Q. Do you know what kind of material they've</p> <p>6 been using to fix those leaks?</p> <p>7 A. Well, I'm a little nervous to say what it's</p> <p>8 called, between -- now that we --</p> <p>9 Q. Is it metal?</p> <p>10 A. No.</p> <p>11 Q. Is it PEX?</p> <p>12 A. I'm still confused between NIBCO, PEX, and --</p> <p>13 Q. Okay.</p> <p>14 A. I need clarification on that.</p> <p>15 Q. Does it look like the same type of material</p> <p>16 that the previous piping in your house was?</p> <p>17 A. I believe the term my husband has used is</p> <p>18 SharkBite, but I cannot promise you that that is</p> <p>19 correct.</p> <p>20 Q. Okay. I will ask your husband. Maybe he can</p> <p>21 clarify.</p> <p>22 A. Thank you. I just don't want to say the</p> <p>23 wrong thing.</p> <p>24 Q. I understand.</p> <p>25 Now, you say -- I think you believe, you</p>

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<p style="text-align: right;">Page 70</p> <p>1 said, that during the spring 2012, after these two</p> <p>2 leaks in March, you then had the main line in your</p> <p>3 house replaced. Is that correct?</p> <p>4 A. Yes, I think that's right.</p> <p>5 Q. Okay. And who --</p> <p>6 A. I believe. Yes.</p> <p>7 Q. Okay. And who did that replacement?</p> <p>8 A. Benard. I can't remember his -- I can't</p> <p>9 remember his name.</p> <p>10 Q. Do you think your husband might remember?</p> <p>11 A. He may, but probably not. It's someone that</p> <p>12 my dad had used with his company, that worked for my</p> <p>13 dad. It was someone who had worked with my dad for</p> <p>14 years that did a lot of, like, drywall and plumbing</p> <p>15 and -- you know, a little construction company, like</p> <p>16 subcontract -- you know how contractors subcontract</p> <p>17 other people? It was that kind of deal.</p> <p>18 Q. Okay. So this -- can you try to spell what</p> <p>19 you're saying? Benard?</p> <p>20 A. B-e-n-a-r-d, maybe.</p> <p>21 Q. Okay.</p> <p>22 A. It's in documents that -- where we -- I have</p> <p>23 receipts and documents where I paid him.</p> <p>24 Q. Okay. And so your understanding, at least,</p> <p>25 of what was done during this main line replacement</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Can you describe to me what you mean? Like,</p> <p>2 was the fitting -- like, was water coming out of the</p> <p>3 fitting? Or can you describe to me what you mean?</p> <p>4 A. No. It's a video of it somewhere. You can</p> <p>5 see it.</p> <p>6 Q. Okay. So you think there's a video of that</p> <p>7 particular one?</p> <p>8 A. I know there's a video of it.</p> <p>9 Q. Okay. I've been given 17 videos.</p> <p>10 A. I know. I'm sorry.</p> <p>11 Q. So I think to identify that, we'll have to go</p> <p>12 through those later.</p> <p>13 A. Okay.</p> <p>14 Q. Do you know how much money you've spent --</p> <p>15 after you stopped making insurance claims, do you</p> <p>16 know how much money you've spent on repairs to either</p> <p>17 the plumbing or to your house?</p> <p>18 A. A lot.</p> <p>19 Q. Can you be more specific?</p> <p>20 A. No. There is no way I can tell you. I've</p> <p>21 never sat and calculated all of it.</p> <p>22 Q. Who has done those repairs?</p> <p>23 A. We have. You mean --</p> <p>24 Q. Yeah. Who has done the actual work?</p> <p>25 A. Me, my husband. So as far as labor, no, we</p>
<p style="text-align: right;">Page 71</p> <p>1 was -- did they replace the plumbing from the water</p> <p>2 heater?</p> <p>3 A. The main hot water line --</p> <p>4 Q. Okay.</p> <p>5 A. -- is what they replaced.</p> <p>6 Q. And to the best of your recollection, with a</p> <p>7 SharkBite material -- or material manufactured by</p> <p>8 SharkBite, to the best of your recollection?</p> <p>9 A. Yes. It looks -- yes. It's the same type,</p> <p>10 but I know it didn't say NIBCO on it.</p> <p>11 Q. Since the replacement of that main line, that</p> <p>12 main hot water line, have you had any leaks in that</p> <p>13 line?</p> <p>14 A. No.</p> <p>15 Q. All the leaks that are described here in</p> <p>16 Exhibit 4, and maybe any others that you might</p> <p>17 recall, were all the leaks in the tubing itself, to</p> <p>18 your knowledge?</p> <p>19 A. All of them but one.</p> <p>20 Q. Okay. And can you point out to me the one --</p> <p>21 A. Well, other than the one -- the showerhead</p> <p>22 that he fixed when we first got there, the leak. I</p> <p>23 think that was a fitting. But then there was another</p> <p>24 one. But I don't remember where. I know it was a</p> <p>25 fitting.</p>	<p style="text-align: right;">Page 73</p> <p>1 haven't spent any money on labor. We've labored</p> <p>2 ourselves.</p> <p>3 Q. And you bought the materials locally there?</p> <p>4 A. Yes.</p> <p>5 Q. Have you produced, like, receipts and</p> <p>6 invoices for those materials to your counsel?</p> <p>7 A. Yes.</p> <p>8 Q. Did Allstate communicate to you that they</p> <p>9 were going to drop you as an insured if you made</p> <p>10 another claim?</p> <p>11 A. No. They told me they couldn't drop me.</p> <p>12 Q. What do you mean by that?</p> <p>13 A. I have a gold -- what they consider the gold</p> <p>14 package.</p> <p>15 Q. And what's your understanding of the gold</p> <p>16 packages?</p> <p>17 A. I really didn't understand them. It's, like,</p> <p>18 their premium package.</p> <p>19 Q. Okay. Because you had been a customer for</p> <p>20 long enough?</p> <p>21 A. I think so.</p> <p>22 Q. So they couldn't drop you, but they could</p> <p>23 increase your premium. Is that your understanding?</p> <p>24 A. Yes. Continued to increase it until I left.</p> <p>25 MS. STEPHENS: I'll hand you what we'll</p>

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<p style="text-align: right;">Page 74</p> <p>1 mark Kimberly Cole Exhibit 5.</p> <p>2 (WHEREUPON, the above-mentioned document</p> <p>3 was marked as Exhibit Number 5.)</p> <p>4 BY MS. STEPHENS:</p> <p>5 Q. Please take a look at that exhibit and let me</p> <p>6 know when you're ready to answer questions.</p> <p>7 A. (Witness reviews document.)</p> <p>8 Okay.</p> <p>9 Q. Are the pages in Exhibit 5, which just for</p> <p>10 the record are Cole566 through Cole573, are these all</p> <p>11 notes taken by you?</p> <p>12 A. Yes.</p> <p>13 Q. And this is just a notebook where you were</p> <p>14 writing things down?</p> <p>15 A. Yes, for -- yes.</p> <p>16 Q. And are these notes related to a particular</p> <p>17 leak?</p> <p>18 A. Yes.</p> <p>19 Q. Which leak?</p> <p>20 A. The very first one.</p> <p>21 Q. The one in November 2010?</p> <p>22 A. Yes.</p> <p>23 Q. And does Exhibit 5 refresh your recollection</p> <p>24 or remind you who did the repair work to your house</p> <p>25 in that instance?</p>	<p style="text-align: right;">Page 76</p> <p>1 describing?</p> <p>2 A. Yeah.</p> <p>3 Q. That's the work that Cobb Construction did,</p> <p>4 correct?</p> <p>5 A. Yeah. Like, they came in and moved out --</p> <p>6 because Alan was out of town. And they came in and</p> <p>7 started moving out, because, like I said, there was</p> <p>8 standing -- the water was to my ankles in the whole</p> <p>9 entire downstairs, so you know, I was more concerned</p> <p>10 about my furniture and all of my stuff getting more</p> <p>11 damaged, so I wanted it, like, out of my house. Get</p> <p>12 it all out. And so they were coming -- if you've</p> <p>13 ever dealt with insurance companies, they don't move</p> <p>14 very fastly, and I didn't just care to have my stuff</p> <p>15 just sitting in there. I wanted it out in the</p> <p>16 driveway, like, not to be damaged any further. So</p> <p>17 they moved all the stuff out and started sucking all</p> <p>18 the water out of the house.</p> <p>19 Q. And then on 572, we see this reference to</p> <p>20 Rytech Metro.</p> <p>21 A. Yeah. And it -- and when he got there,</p> <p>22 that's when he, like, came in with all the -- you</p> <p>23 know, finished sucking out more water.</p> <p>24 Q. Basically, a big vacuum-type thing?</p> <p>25 A. Not really, because there wasn't much water</p>
<p style="text-align: right;">Page 75</p> <p>1 A. Yes.</p> <p>2 Q. And who was that?</p> <p>3 A. What do you mean, repair work? What do you</p> <p>4 mean? Like, who came out and did the water -- like,</p> <p>5 the water that -- you know, when you say repair work,</p> <p>6 there's a broad term there. You know, first, you</p> <p>7 have to -- like, you know, I called my dad that</p> <p>8 morning. Obviously, all of our stuff had to be moved</p> <p>9 out, so his company people came in and, like, moved</p> <p>10 all of our furniture out. They started sucking out</p> <p>11 the water with the wet vacs. Our floor was floating</p> <p>12 at the time, and all that such things. And then</p> <p>13 Rytech of Memphis is who came in and, like, do all</p> <p>14 the -- those things that make the loud noises.</p> <p>15 Q. Okay.</p> <p>16 A. The water thing.</p> <p>17 Q. So when you were giving that description, you</p> <p>18 were looking at Page 571; is that correct? See the</p> <p>19 numbers in the little corner down there? It's kind</p> <p>20 of hard to read.</p> <p>21 A. Yeah.</p> <p>22 Q. Okay. And there's a page that says -- at the</p> <p>23 top that says: A.M., first cleanup.</p> <p>24 A. Yeah.</p> <p>25 Q. Okay. And that's what you were just</p>	<p style="text-align: right;">Page 77</p> <p>1 left. It had ran all out, you know, because my house</p> <p>2 is on a slab. He set up, like, the drying machines,</p> <p>3 you know, all over your house, and put holes in our</p> <p>4 cabinets around the bottom. I don't know what those</p> <p>5 things are called, but they made a whole lot of</p> <p>6 noise.</p> <p>7 Q. I understand.</p> <p>8 A. That thing. Uh-huh.</p> <p>9 Q. Did you take a video during the November 2010</p> <p>10 leak or the repairs?</p> <p>11 A. No, uh-uh.</p> <p>12 Q. Okay. When did you start taking videos?</p> <p>13 A. I may have videoed, like, the damage</p> <p>14 afterwards, but the actual leak I did not video. But</p> <p>15 that was for insurance purposes.</p> <p>16 Q. If we go through every leak video -- or every</p> <p>17 video that has been turned over to me in this case,</p> <p>18 would you be able to tell me the date of that video?</p> <p>19 A. No.</p> <p>20 Q. Who would be able to tell me that?</p> <p>21 A. I don't know. Nobody, probably. I sent</p> <p>22 them -- like, the first time -- I'm trying to</p> <p>23 remember. It's a lot of information. Let's see.</p> <p>24 The first -- the first leak, we just talked about.</p> <p>25 The second leak, I know Alan videoed.</p>

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<p style="text-align: right;">Page 78</p> <p>1 The problem is they run in the same rooms, so</p> <p>2 when you're looking at them, you're still looking at</p> <p>3 the same room. You know what I mean? Because, like,</p> <p>4 they get repaired back to where -- in the beginning,</p> <p>5 we were repairing them to where they looked the same.</p> <p>6 You know, so when you go -- when it happened again,</p> <p>7 the room looks the same.</p> <p>8 Q. Right.</p> <p>9 A. But then afterward, every time I would get</p> <p>10 one, I would send it in.</p> <p>11 Q. Were the videos taken on a phone?</p> <p>12 A. Yes.</p> <p>13 Q. Whose phone?</p> <p>14 A. Different phones. My phone or Alan's phone.</p> <p>15 Some of them were taken on a video camera. It was</p> <p>16 all different. And it's over the years, so</p> <p>17 technology -- you know, we would, like, put them on a</p> <p>18 flash drive or we would do -- you know, we don't have</p> <p>19 that phone anymore or --</p> <p>20 Q. Okay. All right.</p> <p>21 A. -- we dropped the phone. You know.</p> <p>22 Q. No one has ever dropped a phone before. What</p> <p>23 are you talking about?</p> <p>24 A. And I still haven't figured the iPod out, so</p> <p>25 that could be faster.</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. So you're not sure who took them?</p> <p>2 A. No. One of us.</p> <p>3 Q. Do you know whether they were all taken at</p> <p>4 the same time?</p> <p>5 A. No, they weren't.</p> <p>6 Q. Can you tell by looking at them what date the</p> <p>7 particular photographs were taken?</p> <p>8 A. No.</p> <p>9 Q. This first page, Cole308, is that your</p> <p>10 laundry room?</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall --</p> <p>13 A. The new laundry room.</p> <p>14 Q. The new laundry room. What do you mean?</p> <p>15 Where is the new laundry room in your house?</p> <p>16 A. I don't -- I don't know how to explain what</p> <p>17 you're asking me. I'm sorry.</p> <p>18 Q. Is it on the first floor?</p> <p>19 A. Yes.</p> <p>20 Q. Is it near the kitchen?</p> <p>21 A. Yes. It used to be on the other side of this</p> <p>22 wall (indicating); now, it's on this side of the</p> <p>23 wall.</p> <p>24 Q. And why was the laundry room moved?</p> <p>25 A. In the process of all of this, we took off --</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. Did you also take photographs of the damage</p> <p>2 in your home?</p> <p>3 A. Yes.</p> <p>4 Q. And did you also take photographs of the pipe</p> <p>5 that was taken out of your house?</p> <p>6 A. Yes.</p> <p>7 Q. And at some point, were those submitted to</p> <p>8 your counsel in this case or --</p> <p>9 A. Yes.</p> <p>10 MS. STEPHENS: Okay. I'm going to hand</p> <p>11 you what's been marked as Cole Exhibit 6.</p> <p>12 (WHEREUPON, the above-mentioned document</p> <p>13 was marked as Exhibit Number 6.)</p> <p>14 BY MS. STEPHENS:</p> <p>15 Q. Now, I'll represent to you that these</p> <p>16 documents were turned over to us by your counsel, and</p> <p>17 they have the Bates numbers Cole308 through Cole344.</p> <p>18 Please take a look if you'd like, but these are a</p> <p>19 series of color photographs.</p> <p>20 A. (Witness reviews document.)</p> <p>21 Q. Do you recognize the photographs in</p> <p>22 Exhibit 6?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Who took these photographs?</p> <p>25 A. Alan or I, one.</p>	<p style="text-align: right;">Page 81</p> <p>1 I don't even know how to word it. We had a close --</p> <p>2 we took in three children based on a kinship -- well,</p> <p>3 one on a kinship program, and then later we were</p> <p>4 contacted by the Department of Children's Services</p> <p>5 through Tennessee that her siblings -- we have a</p> <p>6 daughter who we had privately adopted, and we were</p> <p>7 contacted by the Department of Children's Services</p> <p>8 that her siblings had been taken into DCS custody and</p> <p>9 that they would be placed in foster care and that our</p> <p>10 daughter would not be allowed to see them anymore</p> <p>11 once they were removed, and so would we be willing to</p> <p>12 become foster parents. And so we took them in. So</p> <p>13 during all of this, we had to find room for them.</p> <p>14 Q. So you did some remodeling of the house to</p> <p>15 accommodate your expanded family at that time; is</p> <p>16 that correct?</p> <p>17 A. (Nodding head affirmatively.)</p> <p>18 Yes.</p> <p>19 (Short break.)</p> <p>20 BY MS. STEPHENS:</p> <p>21 Q. All right. We're back on the record</p> <p>22 Mrs. Cole, do you understand you're still under oath?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. During the break, did you recall</p> <p>25 anything about the answers you've given this morning</p>

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<p style="text-align: right;">Page 82</p> <p>1 that you wanted to clarify?</p> <p>2 A. No.</p> <p>3 MS. STEPHENS: Okay. You can set aside</p> <p>4 Exhibit 6. I'm going to show you another exhibit,</p> <p>5 photos, marked Cole Exhibit 7.</p> <p>6 (WHEREUPON, the above-mentioned document</p> <p>7 was marked as Exhibit Number 7.)</p> <p>8 BY MS. STEPHENS:</p> <p>9 Q. Take your time and look through it, please.</p> <p>10 A. (Witness reviews document.)</p> <p>11 Okay.</p> <p>12 Q. Do the pictures in Exhibit 7 look familiar to</p> <p>13 you?</p> <p>14 A. It's my house.</p> <p>15 Q. Okay. Did you take these pictures?</p> <p>16 A. Some of them.</p> <p>17 Q. Who else would have taken some of the</p> <p>18 pictures?</p> <p>19 A. Alan would have taken some of them. The</p> <p>20 company that NIBCO sent out may have taken some of</p> <p>21 them. Cindy, with -- I don't know who she's with.</p> <p>22 Q. Maybe Paragon?</p> <p>23 A. Yes. She may have taken some of them. And</p> <p>24 that's about all.</p> <p>25 Q. And just for the record, this is -- Exhibit 7</p>	<p style="text-align: right;">Page 84</p> <p>1 because technology seems to advance quite fast.</p> <p>2 Faster than this has. So we just try to keep it on a</p> <p>3 flash drive. It seems to be easier.</p> <p>4 Q. And you mentioned that NIBCO sent someone</p> <p>5 out. Was that the inspection that was related to</p> <p>6 this lawsuit?</p> <p>7 A. Yes.</p> <p>8 Q. And Ms. Smith was also there?</p> <p>9 A. Yes.</p> <p>10 Q. Is that the -- previously, had Cynthia Smith</p> <p>11 or anyone from her company visited your house?</p> <p>12 A. No.</p> <p>13 Q. Were you present during that inspection?</p> <p>14 A. Yes.</p> <p>15 Q. And was some plumbing removed from your house</p> <p>16 as part of that inspection?</p> <p>17 A. I think so.</p> <p>18 Q. And then a plumber maybe replaced it with</p> <p>19 something else?</p> <p>20 A. Yes.</p> <p>21 Q. Could you turn to -- now, the Bates labels</p> <p>22 are kind of messed up. It's about the middle --</p> <p>23 there's a page that's from Disaster Services. Joe is</p> <p>24 going to help you out here.</p> <p>25 MR. KENNEY: Okay. I think we're on the</p>
<p style="text-align: right;">Page 83</p> <p>1 has Bates labels Cole466 through 489; is that</p> <p>2 correct?</p> <p>3 MR. KENNEY: The first one is 345.</p> <p>4 MS. STEPHENS: Oh. I'm sorry.</p> <p>5 MR. KENNEY: It goes 345 --</p> <p>6 MS. STEPHENS: Okay. I grabbed the wrong</p> <p>7 one. I apologize.</p> <p>8 BY MS. STEPHENS:</p> <p>9 Q. So again, Exhibit 7 is Cole345 through, it's</p> <p>10 hard to read, I think it's Cole395. And that's just</p> <p>11 to note for the record. That's not a test for you.</p> <p>12 A. Okay.</p> <p>13 Q. Now, it says on the first page of this</p> <p>14 exhibit, it says: Images provided by homeowner on US</p> <p>15 drive folder leaks.</p> <p>16 Does that sound familiar? Did you provide,</p> <p>17 like, a thumb drive or something to them?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And you gave that to maybe Cynthia</p> <p>20 Smith?</p> <p>21 A. Yes.</p> <p>22 Q. And these pictures are maintained on the</p> <p>23 computer at your house?</p> <p>24 A. Well, yes. Multiple electronics, and then</p> <p>25 I've tried to just put it all on a flash drive</p>	<p style="text-align: right;">Page 85</p> <p>1 right page.</p> <p>2 BY MS. STEPHENS:</p> <p>3 Q. Unfortunately, the page numbers on this are</p> <p>4 kind of overlapped at the bottom, so I'm just going</p> <p>5 to refer to the pages of the actual report. Does</p> <p>6 this look familiar to you, this page that I'm looking</p> <p>7 at with, Disaster Services, on top?</p> <p>8 A. Yes.</p> <p>9 Q. And who is Disaster Services?</p> <p>10 A. It was a company we called to get an estimate</p> <p>11 for repairs for our home, to have the plumbing</p> <p>12 replaced and to have all the damages repaired in our</p> <p>13 home.</p> <p>14 Q. And this was done in, it looks like, maybe</p> <p>15 September 13th, 2016?</p> <p>16 A. Uh-huh.</p> <p>17 Q. Is that yes?</p> <p>18 A. Yes. I'm sorry.</p> <p>19 Q. And if we flip a few pages, we can perhaps</p> <p>20 find a total. I think on Page 12.</p> <p>21 A. There we go. Yes.</p> <p>22 Q. Okay. And it says: Net claim, \$56,331.09.</p> <p>23 A. Yes.</p> <p>24 Q. Does that appear to be correct? Is that what</p> <p>25 you remember the total being for their estimate?</p>

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<p style="text-align: right;">Page 86</p> <p>1 A. For his, uh-huh.</p> <p>2 Q. For Disaster Services?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And have you had any of this work</p> <p>5 done?</p> <p>6 A. No.</p> <p>7 Q. This was just getting an estimate?</p> <p>8 A. Yes.</p> <p>9 Q. And you said that this estimate, again,</p> <p>10 includes not just repairing the damage to the house,</p> <p>11 but also, replacing all the plumbing?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So if you look on Page 15, it says:</p> <p>14 Recap by category.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And this outlines the different</p> <p>18 categories of work that this company would do for you</p> <p>19 if you accepted this bid?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And you see that plumbing indication</p> <p>22 that says about \$22,000?</p> <p>23 A. Yes.</p> <p>24 Q. And during this replumb, would they replace</p> <p>25 just the NIBCO products or replace everything in the</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. So it was more than this estimate?</p> <p>2 A. Yes.</p> <p>3 Q. Have you decided whether you're going to</p> <p>4 pursue one of these estimates or are you waiting?</p> <p>5 A. I can't afford to pursue one of these</p> <p>6 estimates at this time.</p> <p>7 Q. Okay. So were they done for purposes of this</p> <p>8 lawsuit?</p> <p>9 A. No. We were looking at refinancing our house</p> <p>10 and to see what it was going to cost us.</p> <p>11 Q. And the Lowe's estimate you got, it's for the</p> <p>12 same type of repairs, including a replumb?</p> <p>13 A. Yes.</p> <p>14 MS. STEPHENS: All right. I'm going to</p> <p>15 hand you what's been marked Cole Exhibit 8.</p> <p>16 (WHEREUPON, the above-mentioned document</p> <p>17 was marked as Exhibit Number 8.)</p> <p>18 BY MS. STEPHENS:</p> <p>19 Q. This is a document with Bates label Cole396</p> <p>20 through 463.</p> <p>21 A. (Witness reviews document.)</p> <p>22 Q. All right. Do the photographs in Exhibit 8</p> <p>23 look familiar to you?</p> <p>24 A. Yes, yes.</p> <p>25 Q. All right. Did you take any of these</p>
<p style="text-align: right;">Page 87</p> <p>1 plumbing?</p> <p>2 A. The plumbing is NIBCO. All of it is NIBCO.</p> <p>3 So I'm assuming --</p> <p>4 Q. Well, let's stop you there. I thought you</p> <p>5 said you had the main line redone at some point, the</p> <p>6 hot water line?</p> <p>7 A. Oh, yes.</p> <p>8 Q. Okay. So do you know whether this plumbing</p> <p>9 estimate includes replacing all the plumbing,</p> <p>10 including that hot water line?</p> <p>11 A. I don't know that answer.</p> <p>12 Q. Okay. Do you know what type of material</p> <p>13 Disaster Services was going to use for this</p> <p>14 replumbing?</p> <p>15 A. No.</p> <p>16 Q. Did you have another estimate -- go ahead.</p> <p>17 A. No, I don't know.</p> <p>18 Q. Okay. Did you have another estimate done for</p> <p>19 these proposed repairs to your house?</p> <p>20 A. Yes.</p> <p>21 Q. And who did that estimate?</p> <p>22 A. Lowe's.</p> <p>23 Q. And do you recall how much that estimate was</p> <p>24 for?</p> <p>25 A. I think it was \$67,000.</p>	<p style="text-align: right;">Page 89</p> <p>1 photographs?</p> <p>2 A. Yes.</p> <p>3 Q. Did you take all of them?</p> <p>4 A. No.</p> <p>5 Q. Who took -- who do you believe took any of</p> <p>6 the other photographs?</p> <p>7 A. My husband. Possibly, Cindy. Possibly,</p> <p>8 those two men that I don't know their names.</p> <p>9 Q. If you turn to the second page, Cole397, do</p> <p>10 those photographs look familiar to you?</p> <p>11 A. Yep. Yes.</p> <p>12 Q. Do you believe you took those photos?</p> <p>13 A. Yes.</p> <p>14 Q. And did you also -- there's, like, a black --</p> <p>15 okay. Let me start over.</p> <p>16 On Page Cole397, there's two photographs,</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. And they're both showing a red pipe?</p> <p>20 A. Yes.</p> <p>21 Q. Do you believe this pipe was from one of the</p> <p>22 leaks in your house?</p> <p>23 A. Yes.</p> <p>24 Q. Could you tell me which one it is.</p> <p>25 A. No.</p>

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<p style="text-align: right;">Page 90</p> <p>1 Q. I believe there's some, like, marks, marker</p> <p>2 on the pipe.</p> <p>3 A. Yes.</p> <p>4 Q. Did you draw that on the pipe?</p> <p>5 A. I think either I or Alan did.</p> <p>6 Q. Okay. And what -- were you circling</p> <p>7 something there?</p> <p>8 A. Yeah. Like, the leak.</p> <p>9 Q. Okay. And can you describe to me what</p> <p>10 exactly you mean? What do you see on that pipe that</p> <p>11 you were circling?</p> <p>12 A. Where the water was coming out.</p> <p>13 Q. Okay. And can you describe to me what you</p> <p>14 see in -- like, for instance --</p> <p>15 A. Like, a long, white looking, little line.</p> <p>16 Q. Okay. Would you describe that as a split?</p> <p>17 A. Yes. A long split.</p> <p>18 Q. To the extent you observed the pipes in your</p> <p>19 house that were believed to be leaking, did they all</p> <p>20 look like this, with some sort of split in them?</p> <p>21 A. Yes. Some were small; some were big.</p> <p>22 Q. And were all of them kind of, for lack of a</p> <p>23 better term, horizontal along the pipe like this one</p> <p>24 that we can see on Page Cole397?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 92</p> <p>1 to a red pipe, and another time, it was connected to</p> <p>2 a blue pipe. Those are the two times I recall. A</p> <p>3 long time ago, and then closer to -- like, maybe up</p> <p>4 here. You know.</p> <p>5 Q. All right.</p> <p>6 A. But they were all sent in.</p> <p>7 Q. I can't recall if I asked you this. The</p> <p>8 fitting leak that you recall that's been more recent,</p> <p>9 was the water coming out of the connection between</p> <p>10 the pipe and the fitting or was there a hole or a</p> <p>11 crack or something in the fitting itself?</p> <p>12 A. I don't recall. I know there's a video.</p> <p>13 Q. Okay.</p> <p>14 A. And you can just -- the water is just -- we</p> <p>15 could just see water coming out of it and -- you</p> <p>16 know, we didn't know. We just fixed it. We didn't</p> <p>17 know how it was coming -- you know, how it was coming</p> <p>18 out. We just took it off and replaced it. It just</p> <p>19 shows a drip.</p> <p>20 MS. STEPHENS: I'll hand you what's been</p> <p>21 marked as Cole Exhibit 9.</p> <p>22 (WHEREUPON, the above-mentioned document</p> <p>23 was marked as Exhibit Number 9.)</p> <p>24 BY MS. STEPHENS:</p> <p>25 Q. This is a series of photographs with Bates</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. Did you take a picture of any of the fittings</p> <p>2 that you believe were leaking?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Do you recall whether those were</p> <p>5 attached to a blue pipe or a red pipe?</p> <p>6 A. I don't remember. There should be a picture</p> <p>7 somewhere.</p> <p>8 Q. Did you see a picture of that in this set on</p> <p>9 Exhibit 8?</p> <p>10 A. I think -- let's see.</p> <p>11 (Witness reviews document.)</p> <p>12 Now, what's the question?</p> <p>13 Q. I was asking about whether you believe</p> <p>14 there's any pictures of the -- you said you thought</p> <p>15 one of the leaks was a fitting, so I'm trying to</p> <p>16 figure out if there's a picture of what fitting you</p> <p>17 believe was leaking.</p> <p>18 A. There's pictures of fittings in here, but I'm</p> <p>19 not sure if it's the leaky one or not. Does that</p> <p>20 answer what you're asking me?</p> <p>21 Q. Well, do you recall what the -- what type of</p> <p>22 fitting you believed was leaking? Was it, like, a T?</p> <p>23 A. Yes. Yes, it was a T. Both times.</p> <p>24 Q. But you don't recall whether --</p> <p>25 A. And I believe that one time, it was connected</p>	<p style="text-align: right;">Page 93</p> <p>1 numbers Cole466 through Cole489. Go ahead and take a</p> <p>2 look and me know if you recognize those photos.</p> <p>3 A. (Witness reviews document.)</p> <p>4 Yes, ma'am.</p> <p>5 Q. Okay. And again, just like the previous two</p> <p>6 exhibits, the first page of this has a logo for</p> <p>7 Paragon on the front page, and it says: Images</p> <p>8 provided by homeowner on US drive.</p> <p>9 Do you see that on the first page of</p> <p>10 Exhibit 9?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Okay. So these, again, were images that you</p> <p>13 provided to Cynthia Smith, you believe?</p> <p>14 A. Yes.</p> <p>15 Q. And these were maintained somewhere on a</p> <p>16 flash drive you have at home?</p> <p>17 A. Yes.</p> <p>18 Q. And same question as before. Did you take</p> <p>19 all of these photographs in Exhibit 9?</p> <p>20 A. Alan and I.</p> <p>21 Q. So these are ones you recognize as ones that</p> <p>22 you particularly took?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall on what date you took these</p> <p>25 photos?</p>

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<p style="text-align: right;">Page 94</p> <p>1 A. No, no.</p> <p>2 Q. Did you see any photos when you were flipping</p> <p>3 through Exhibit 9 that appear to be the fitting issue</p> <p>4 that you were talking about?</p> <p>5 A. Yes, the last -- the second one. That I</p> <p>6 remember.</p> <p>7 Q. Was that the more recent fitting leak?</p> <p>8 A. Yes, yes.</p> <p>9 Q. Correct? Okay.</p> <p>10 Can you tell me which photograph specifically</p> <p>11 looked familiar?</p> <p>12 A. This one (indicating).</p> <p>13 Q. Okay. And can you tell me the page number</p> <p>14 that you're looking at?</p> <p>15 MS. STEPHENS: Joe, maybe?</p> <p>16 MR. KENNEY: 476. That's Cole476.</p> <p>17 Sorry.</p> <p>18 BY MS. STEPHENS:</p> <p>19 Q. So Cole476, which is part of Exhibit 9, this</p> <p>20 you recognize as the fitting that was removed as part</p> <p>21 of the leak recently?</p> <p>22 A. Yes. Well, not recently. I don't remember.</p> <p>23 I mean, it could have been a year ago, as far as time</p> <p>24 goes.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Well, it was on the cold.</p> <p>2 Q. Okay. So to the best of your knowledge, the</p> <p>3 cold side was blue piping?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And the hot water was red piping?</p> <p>6 A. Yes. It was originally. It's white now.</p> <p>7 Q. Okay. During --</p> <p>8 A. So in the pictures, I think, of this, it will</p> <p>9 be white because it's been changed. In the video,</p> <p>10 the pipe next to it is white.</p> <p>11 Q. Have you had any other leaks on the cold side</p> <p>12 of your water, other than this September 2014 leak?</p> <p>13 A. I believe so.</p> <p>14 Q. Okay. Which leaks?</p> <p>15 A. I have no idea. Like, I mean, I can't just</p> <p>16 tell you off the top of my head right here.</p> <p>17 Q. How many of the leaks?</p> <p>18 A. He will -- Alan will know more on that than I</p> <p>19 will. Probably along -- halfway down here is when I</p> <p>20 got really frustrated and maybe handed it over to him</p> <p>21 for a bit.</p> <p>22 Q. The picture that -- these two pictures that</p> <p>23 we see on Cole476, were those taken by you or Alan?</p> <p>24 A. I think both of us, actually, that night.</p> <p>25 It's kind of hard to do that for a one-man show.</p>
<p style="text-align: right;">Page 95</p> <p>1 A. But yes. This is the one I remember it</p> <p>2 dripping from, and there is a video of it dripping</p> <p>3 from it.</p> <p>4 Q. If you look back at Exhibit 4, which is the</p> <p>5 leak -- Cole Leak List, and we compare that to</p> <p>6 Page 476, if you look at the leaks list, does that</p> <p>7 remind you at all of where this fitting -- or which</p> <p>8 particular leak this fitting could have been related</p> <p>9 to?</p> <p>10 A. Yes. It would have been the right side of</p> <p>11 sink on the kitchen. Kitchen, right side of sink,</p> <p>12 September 2014.</p> <p>13 Q. All right. So if we look on Page Cole476,</p> <p>14 both of those photographs are labeled, Kitchen,</p> <p>15 correct?</p> <p>16 A. Yep.</p> <p>17 Q. Okay. And again, you believe --</p> <p>18 A. Yes.</p> <p>19 Q. That's helped to remind you that the fitting</p> <p>20 leak that you recall being more recent is the</p> <p>21 September 2014, kitchen, right side of sink, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And do you know whether this blue --</p> <p>24 whether this fitting was on the cold side or the hot</p> <p>25 side?</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. So this was taken around the time of the</p> <p>2 actual leak?</p> <p>3 A. Oh, yeah. We finally learned that as soon as</p> <p>4 it happened, for documentation purposes, it was best</p> <p>5 to take care of everything at the time it was</p> <p>6 happening. You know, when it was removed, take your</p> <p>7 picture, put it in a bag. You know, we learned to do</p> <p>8 things that way.</p> <p>9 Q. And do you believe, to the extent there was</p> <p>10 pipe or fittings removed from your house during any</p> <p>11 of these leaks, that those have -- do you have any of</p> <p>12 those left in your possession?</p> <p>13 A. No. Everything I have, I sent.</p> <p>14 Q. Was either sent to your counsel or was taken</p> <p>15 maybe during the inspection?</p> <p>16 A. Yes.</p> <p>17 Q. Have you ever followed up with Allstate</p> <p>18 trying to get the pipe that you sent to them back?</p> <p>19 A. Yes. I sent them a letter one time, and they</p> <p>20 never replied to me.</p> <p>21 Q. I've seen some pictures and perhaps in the</p> <p>22 videos that you've sent that some of the ceilings and</p> <p>23 the walls have been opened up, correct, to do some of</p> <p>24 these repairs?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 98</p> <p>1 Q. Okay. Do you still have openings in your 2 ceilings and walls right now?</p> <p>3 A. Yes.</p> <p>4 Q. And that's part of the repair work that is 5 included in those estimates that you got?</p> <p>6 A. Yes.</p> <p>7 MS. STEPHENS: I'm going to hand you what 8 I've marked Cole Exhibit 10.</p> <p>9 (WHEREUPON, the above-mentioned document 10 was marked as Exhibit Number 10.)</p> <p>11 BY MS. STEPHENS:</p> <p>12 Q. It's another series of photographs, this time 13 with the Bates labels Cole724 through 794.</p> <p>14 A. (Witness reviews document.) 15 Okay.</p> <p>16 Q. Do you recognize the photographs that are 17 contained in Cole Exhibit 10?</p> <p>18 A. Yes.</p> <p>19 Q. And did you take some of these photographs?</p> <p>20 A. Yes.</p> <p>21 Q. Did your husband take some of these 22 photographs?</p> <p>23 A. Yes.</p> <p>24 Q. Did Cynthia Smith take some of these 25 photographs?</p>	<p style="text-align: right;">Page 100</p> <p>1 BY MS. STEPHENS:</p> <p>2 Q. All right. Could you flip to page Cole733 3 for me, please.</p> <p>4 A. You know, I think I do remember. Maybe it 5 was taken because -- to show that it said NIBCO.</p> <p>6 Q. Okay.</p> <p>7 A. Maybe Joe had asked us to make sure to check 8 everything or someone had asked us to make sure that 9 all of our -- each of our fittings said NIBCO. Or 10 maybe it had -- it may have been replaced. I don't 11 know. Alan would know that. But I think it was to 12 make sure something said NIBCO, that each one said 13 NIBCO.</p> <p>14 Q. Okay. Thanks for that clarification. 15 Are you on -- you're at Cole733? Do you see 16 those two photographs?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Is that a yes?</p> <p>19 A. Yes.</p> <p>20 Q. They appear to be of a T fitting?</p> <p>21 A. Uh-huh.</p> <p>22 Q. And I can see, like, a keyboard in the 23 background. Do you see that? Like, I see, like, an 24 alt key.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 99</p> <p>1 A. It's possible, yes.</p> <p>2 Q. Okay. You're not sure?</p> <p>3 A. I'm not sure.</p> <p>4 Q. And if I asked you the dates of these 5 photographs, could you tell me?</p> <p>6 A. No.</p> <p>7 Q. Okay. On the first page of Kimberly Cole 8 Exhibit 10, there's a picture of an elbow connection 9 and some blue pipe. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Actually, three different pictures, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And I think they're all of the same 14 connection?</p> <p>15 A. Yes.</p> <p>16 Q. Is this a picture of that fitting connection 17 that was later removed?</p> <p>18 A. No, no.</p> <p>19 Q. Do you know why this photograph was taken?</p> <p>20 A. No. I can't remember.</p> <p>21 MR. KENNEY: Just to clarify, this is a 22 T fitting, right?</p> <p>23 MS. STEPHENS: Sorry. Excuse me. Yes, 24 it is a T fitting. Excuse me.</p> <p>25 MR. KENNEY: Just for the record.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. All right. Do you believe you or Alan took 2 these two photographs?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Do you recall which one of you?</p> <p>5 A. No.</p> <p>6 Q. All right. Is this the same T fitting we 7 were looking at in the previous exhibit?</p> <p>8 A. I don't know.</p> <p>9 Q. Okay.</p> <p>10 A. I think so, but I don't know.</p> <p>11 Q. Okay. I see some, like, little asterisks 12 drawn. I think they're drawn on the photo. I can't 13 tell. Or maybe they're drawn on the fitting itself. 14 Do you see those?</p> <p>15 A. I don't know.</p> <p>16 Q. You don't know. 17 So those two photographs don't look familiar 18 to you?</p> <p>19 A. Maybe to highlight the Duravit. I don't 20 know.</p> <p>21 Q. Okay. So you don't recall making those 22 markings?</p> <p>23 A. I may have, but I don't know. No, I don't 24 remember.</p> <p>25 Q. Okay. All right. Let's turn to Page</p>

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<p style="text-align: right;">Page 102</p> <p>1 Cole764, please. Do you see the second photo on that</p> <p>2 page, the one on the bottom?</p> <p>3 A. Yes.</p> <p>4 Q. And there's, like, a drawn-on arrow or</p> <p>5 something?</p> <p>6 A. Yes.</p> <p>7 Q. I can't tell if that arrow is on the photo or</p> <p>8 on the pipe itself. Do you know?</p> <p>9 A. No, I don't know.</p> <p>10 Q. Okay. Do you think you guys took that photo?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. But you don't recall whether you guys</p> <p>13 marked up the photo or the pipe itself?</p> <p>14 A. No.</p> <p>15 Q. But that's something that we, at least, saw</p> <p>16 from previous photos, that sometimes you would mark</p> <p>17 around the pipe?</p> <p>18 A. Yeah. Well, that we would put the circle</p> <p>19 around the little leak.</p> <p>20 Q. Right.</p> <p>21 A. Uh-huh.</p> <p>22 MS. STEPHENS: Put away that exhibit.</p> <p>23 I'm going to hand you -- I'm going to mark Cole</p> <p>24 Exhibit 11.</p> <p>25 (WHEREUPON, the above-mentioned document</p>	<p style="text-align: right;">Page 104</p> <p>1 work that you had Disaster Services give you an</p> <p>2 estimate for, which would be to replumb the house and</p> <p>3 to fix the interior of your house?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Have you had issues with mold in your</p> <p>6 house?</p> <p>7 A. From?</p> <p>8 Q. Just, have you had issues with mold in your</p> <p>9 house?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And when did that --</p> <p>12 A. Like, have I seen mold when the -- yes, I</p> <p>13 have seen mold when I removed, like, Sheetrock when</p> <p>14 we have had water, like one of these really tiny</p> <p>15 leaks and I remove, like, the Sheetrock or whatever,</p> <p>16 there will be, like, mold there.</p> <p>17 Q. Okay. Have you had -- when did those issues</p> <p>18 begin? When did you start seeing the mold issues?</p> <p>19 A. Each time there's a leak, there's always mold</p> <p>20 there, because it takes so long for the leak to show</p> <p>21 up because they're so tiny. You know, there's</p> <p>22 insulation in my walls. And it's just like</p> <p>23 (demonstrating). It's really slow. So you know, it</p> <p>24 may take a month for the actual leak to cause enough</p> <p>25 damage to show up. So you have tons of moisture in</p>
<p style="text-align: right;">Page 103</p> <p>1 was marked as Exhibit Number 11.)</p> <p>2 BY MS. STEPHENS:</p> <p>3 Q. Take a look at it. For the record, this is a</p> <p>4 multiple-page document with Bates labels Cole669</p> <p>5 through 672. Do you recognize the documents in Cole</p> <p>6 Exhibit 11?</p> <p>7 A. (Witness reviews document.)</p> <p>8 Yes.</p> <p>9 Q. And is this that the Lowe's budget that you</p> <p>10 were speaking of earlier?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And you -- it looks like the date on</p> <p>13 this is December 2015?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And the first two pages, it appears,</p> <p>16 totals a little over \$13,000. Would you agree with</p> <p>17 me?</p> <p>18 A. Yes. The first two pages, yes.</p> <p>19 Q. Okay. And then the second two pages, there's</p> <p>20 a total of a little over \$50,000. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So put these together, it's about</p> <p>23 \$63,000?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And this, again, is the same scope of</p>	<p style="text-align: right;">Page 105</p> <p>1 there. So any time you cut -- as soon as you cut it</p> <p>2 out, you know, and you look, there it is.</p> <p>3 Q. So just to describe, since we're doing a</p> <p>4 deposition today --</p> <p>5 A. Yeah. I'm sorry.</p> <p>6 Q. The noise that you just made --</p> <p>7 A. I'm sorry.</p> <p>8 Q. -- is perhaps like a low hiss?</p> <p>9 A. Yes, yes.</p> <p>10 Q. And you said it's hard to detect because it's</p> <p>11 in the walls and -- in your insulated walls?</p> <p>12 A. Absolutely.</p> <p>13 Q. And back to the mold question, have you had</p> <p>14 any of the mold in your house -- have you done any</p> <p>15 sort of repairs related to that specifically?</p> <p>16 A. They spray, you know, when the companies</p> <p>17 come. Initially, when they came, they sprayed.</p> <p>18 Whatever they do, you know. I saw them spray stuff</p> <p>19 in there, but they didn't talk to me about mold or</p> <p>20 say anything. I didn't address it, really. I was</p> <p>21 really too upset to say anything. I didn't ask them</p> <p>22 about it.</p> <p>23 Q. Have you had the mold in your house tested?</p> <p>24 A. No.</p> <p>25 Q. But whenever whomever would come out to do</p>

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<p style="text-align: right;">Page 106</p> <p>1 repairs on your house, you said they would spray</p> <p>2 something?</p> <p>3 A. Yeah. I saw them, when they cut those holes,</p> <p>4 like on the baseboards, like under my kitchen</p> <p>5 cabinets, you know, they'll stick stuff in there and</p> <p>6 spray for moisture. He would just say, This is for</p> <p>7 moisture.</p> <p>8 Q. I recall seeing an allegation in the</p> <p>9 complaint on this that, on occasion, the leaks have</p> <p>10 caused you to have to not be in your home overnight.</p> <p>11 A. Uh-huh.</p> <p>12 Q. Is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall how many nights you spent out</p> <p>15 of your house because of the leaks?</p> <p>16 A. Not an accurate. Many days.</p> <p>17 Q. More than five?</p> <p>18 A. I don't know. We had to leave, you know, for</p> <p>19 the -- there was seven of us, so we would have to --</p> <p>20 you know, there's no way. You've got six of those</p> <p>21 machines roaring in your home. Our kids were three,</p> <p>22 five, seven, nine, eleven, and fourteen. I don't</p> <p>23 know. There's a bunch of them. So yeah. We would</p> <p>24 have to leave while they fixed the house, but we</p> <p>25 would come back as soon as we could because it --</p>	<p style="text-align: right;">Page 108</p> <p>1 lifetime warranty on a particular part of it, and</p> <p>2 that was about the gist of it.</p> <p>3 Q. Okay. And just to clarify, I think you told</p> <p>4 me that you had that conversation with your father</p> <p>5 after these 2012 leaks, the ones in March.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So sometime after --</p> <p>8 A. When he said something is wrong.</p> <p>9 Q. Okay. So sometime after that, did you find</p> <p>10 the warranty online or did someone give you a copy of</p> <p>11 it?</p> <p>12 A. I found it online.</p> <p>13 Q. Okay. And you looked it over at that time?</p> <p>14 A. Yes.</p> <p>15 Q. Do you believe that you satisfied the terms</p> <p>16 of that warranty on your end?</p> <p>17 MR. KENNEY: Object to the extent it</p> <p>18 calls for a legal conclusion, but you can answer to</p> <p>19 the extent you understand.</p> <p>20 THE WITNESS: I believe yes, I did, to</p> <p>21 the best of my ability.</p> <p>22 BY MS. STEPHENS:</p> <p>23 Q. Do you recall whether that warranty required</p> <p>24 you to send in the defective product or not?</p> <p>25 A. Yes, it did.</p>
<p style="text-align: right;">Page 107</p> <p>1 that's a lot of packing. That's a lot of stuff to</p> <p>2 take out of your house. So at one point, when we</p> <p>3 came back, we just lived upstairs. We moved our bed</p> <p>4 upstairs and just tried to stay upstairs.</p> <p>5 So no, I don't know a specific day. I think</p> <p>6 we were gone three or four days one time, and another</p> <p>7 time, maybe two days. So I can't give you a specific</p> <p>8 yes it was five days.</p> <p>9 Q. Okay.</p> <p>10 A. I have no idea how many days it was.</p> <p>11 Q. Was the first that you learned of a warranty</p> <p>12 on the NIBCO products in your house from your dad</p> <p>13 when you had that conversation with him?</p> <p>14 A. Yes.</p> <p>15 Q. Have you ever read the NIBCO PEX warranty?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What's your understanding of the terms</p> <p>18 of that warranty?</p> <p>19 A. Well, to be honest, I can't recall. What I</p> <p>20 do recall from, what, eight years ago, eight, nine,</p> <p>21 however -- when was our first leak? So that'd be</p> <p>22 seven years ago. Three months later is when I</p> <p>23 probably -- three or four months later, so...</p> <p>24 I know there was, like, a 50-year warranty on</p> <p>25 a certain amount of time of something, and then a</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. Okay. And did you do that?</p> <p>2 A. I tried. They refused to accept it.</p> <p>3 Q. Now, I'm just trying to understand what you</p> <p>4 testified to earlier. You offered them some of the</p> <p>5 pipe that had not leaked; is that correct?</p> <p>6 A. No, I offered them the stretch -- a piece of</p> <p>7 the stretchy -- the long stretch of defective pipe.</p> <p>8 Q. Well, that didn't have an actual leak in it</p> <p>9 at the time, did it?</p> <p>10 A. No.</p> <p>11 Q. Okay.</p> <p>12 A. But they knew I didn't have it.</p> <p>13 Q. So the parts that had been leaking had been</p> <p>14 taken by Allstate, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Or otherwise disposed of prior to that time,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So the time that you offered --</p> <p>20 A. Well, not disposed of.</p> <p>21 Q. Well, you don't know what happened to those,</p> <p>22 right?</p> <p>23 A. No, no. Yes, ma'am, you're right.</p> <p>24 Q. So at the time that you made that offer to</p> <p>25 NIBCO, you didn't have an actual, you know, piece of</p>

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<p style="text-align: right;">Page 110</p> <p>1 pipe that perhaps you'd circled a leak in or 2 something like that, right; you just offered them the 3 actual pipe that had been in your house? 4 A. Yes. 5 Q. Okay. 6 A. From the same section. 7 Q. From the same section, but no -- 8 A. That the leak was in, uh-huh. 9 Q. But you didn't have a split in that part yet? 10 A. No, ma'am. 11 Q. Okay. Now, as part of your research that I 12 believe led you to become a plaintiff in this 13 lawsuit, did you find any materials related to other 14 lawsuits? 15 A. Say that again. I'm sorry. I don't 16 understand. 17 Q. Okay. Let me ask a different question. 18 What else, other than finding a lawyer when 19 you did this internet research regarding the leaks in 20 your home, what else did you find online? 21 A. I actually found, like, a blog. Is that what 22 you're asking me? 23 Q. Yes, ma'am. 24 A. Where other people had had problems, as well. 25 MS. STEPHENS: I'm going to hand you what</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Okay. It appears to read: Received 9/20/16 2 from Cole, re: 2013115. 3 Correct? 4 A. Yes. 5 Q. Okay. But you don't know whose handwriting 6 that is? 7 A. No. 8 Q. Okay. All right. If we look at this 9 exhibit, the first -- after the cover page, the first 10 seven pages appear to be a printout from an online 11 forum. Is that a pretty good description? 12 A. Yes, uh-huh. 13 Q. And it has various posts that appear to start 14 in 2009 -- 15 A. Uh-huh. 16 Q. -- and go into 2011. Would you agree with 17 me? 18 A. Yes. 19 Q. And did you print these seven pages out? 20 A. Yes. 21 Q. And this is one of the things that you found 22 when you did internet research, maybe in 2012? 23 A. Yes. 24 Q. And what did you do when you printed these 25 out?</p>
<p style="text-align: right;">Page 111</p> <p>1 we'll mark Kimberly Cole Exhibit 12. 2 (WHEREUPON, the above-mentioned document 3 was marked as Exhibit Number 12.) 4 BY MS. STEPHENS: 5 Q. This is a series of documents starting with 6 Cole632 through Cole652, and the first page reads: 7 Website info informs about PEX piping. 8 Go ahead and take a look, and then I'll ask 9 you questions. 10 A. (Witness reviews document.) 11 Q. Are you done reviewing this exhibit? 12 A. Yes. 13 Q. Okay. Did you put together this set of 14 documents? 15 A. I printed them out, yes. 16 Q. Okay. Is this website info and forums about 17 PEX piping, is that something that you typed up? 18 A. Yes. This is just my way of keeping my stuff 19 separated and what was -- what I had, what -- 20 Q. Kind of, like, a filing system for what was 21 going on? 22 A. Yes. 23 Q. Okay. Is this handwriting at the top of the 24 page yours? 25 A. No.</p>	<p style="text-align: right;">Page 113</p> <p>1 A. I took them home to show Alan. You can see. 2 They -- I was at work, and I took them home to Alan 3 and was just showing him, like, look here, we're not 4 the only ones that are having problems with this. 5 And I was showing him all the different things that 6 were going on with different people, because we were 7 just -- by 2012, to be quite honest, we were pretty 8 devastated with what was going on in our lives, and 9 so we were just trying to figure out, you know, is 10 this happening to everybody or, you know, what's 11 happening here? And why? You know, why is this 12 happening? 13 Q. Okay. And it appears -- 14 A. Obviously, I had talked to NIBCO. 15 Q. Yeah. About this time or around this time. 16 A. Yeah. 17 Q. Well, I was about to go -- to date this 18 document a little bit better, the first seven pages, 19 which are Cole633 through Cole639, it looks like they 20 were printed on April 3rd, 2012, at the bottom. 21 A. Uh-huh. 22 Q. Is that correct? 23 A. Yes. 24 Q. And you believe you printed these out at 25 work?</p>

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<p style="text-align: right;">Page 114</p> <p>1 A. Yes.</p> <p>2 Q. Did you make any posts on this forum</p> <p>3 yourself?</p> <p>4 A. I did one, but I can't say that this is the</p> <p>5 exact one. But I did post one time on one of them.</p> <p>6 But I don't know if it was around this date or if it</p> <p>7 was later, but just said, you know, that we were</p> <p>8 having -- was anybody having these particular</p> <p>9 problems that we were having with the splits.</p> <p>10 Q. You don't know whether it was on this --</p> <p>11 A. This particular -- there's multiple different</p> <p>12 sites, other than just this one, I'm fairly certain,</p> <p>13 so...</p> <p>14 Q. Did you post under your name or did you</p> <p>15 post --</p> <p>16 A. I think I did. I think I put my e-mail,</p> <p>17 actually. I think I put my actual e-mail. But it</p> <p>18 was -- I went back and checked it throughout the</p> <p>19 years, but I can't remember what it was. I quit at</p> <p>20 one time.</p> <p>21 Q. And did you do anything with this particular</p> <p>22 forum printout, other than show it to your husband?</p> <p>23 A. Stuck it with my claims.</p> <p>24 Q. What do you mean?</p> <p>25 A. Like, I had a file folder that had, like, my</p>	<p style="text-align: right;">Page 116</p> <p>1 A. Say that again.</p> <p>2 Q. Is this another thread that you printed out</p> <p>3 from that forum, these eight pages starting with --</p> <p>4 A. Yes. Oh, because it's separate? Is that</p> <p>5 what you're talking about?</p> <p>6 Q. Yes.</p> <p>7 A. Yeah, I guess it was two separate ones. Or</p> <p>8 is it the same one? I don't know. I can't really --</p> <p>9 I have no idea. I'm sure at the time something must</p> <p>10 have caught my eye that was similar to our house,</p> <p>11 which is why I printed those pages to take home.</p> <p>12 Q. Do you know anybody else personally that has</p> <p>13 had plumbing issues similar to yours?</p> <p>14 A. No. Like, on a personal level, like a</p> <p>15 friend?</p> <p>16 Q. Like, to name their names.</p> <p>17 A. No, no. Other than my father, no.</p> <p>18 Q. You don't know the names of the people he's</p> <p>19 talking about; is that correct?</p> <p>20 A. No, because when he says it -- no.</p> <p>21 Q. Okay. Let's look at Cole648, which is the</p> <p>22 next thing. This appears to be a two-page printout</p> <p>23 of an article from the internet entitled: Zurn PEX</p> <p>24 Faces Class Action Lawsuit.</p> <p>25 Do you see that?</p>
<p style="text-align: right;">Page 115</p> <p>1 insurance claims.</p> <p>2 Q. Did you send this to your insurance company?</p> <p>3 A. No. This?</p> <p>4 Q. Yes.</p> <p>5 A. No. No, no, no. This was after those</p> <p>6 claims, so no, I did not send this to my insurance</p> <p>7 company. I didn't mention this to my insurance</p> <p>8 company.</p> <p>9 Q. Okay. Well, I'm just trying to understand</p> <p>10 because this was printed in April 2012 --</p> <p>11 A. Yeah.</p> <p>12 Q. -- and you, I think, had insurance claims</p> <p>13 pending at that time. Is that correct?</p> <p>14 A. Yeah. I don't think I sent it to them. I</p> <p>15 don't know why I would have. I know I started</p> <p>16 Googling about it after I made the phone call to</p> <p>17 NIBCO.</p> <p>18 Q. All right. Let's look at page -- excuse me,</p> <p>19 Exhibit 12, starting at Page Cole640. This is, like,</p> <p>20 an eight-page segment of this exhibit, from 640 to</p> <p>21 647. And again, this is the same thing, just a</p> <p>22 printout you made from a forum, maybe another thread</p> <p>23 on that same forum.</p> <p>24 A. Okay.</p> <p>25 Q. Is that true?</p>	<p style="text-align: right;">Page 117</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall printing out this article?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Is that a yes?</p> <p>5 A. Yes.</p> <p>6 Q. And at the time, did Zurn mean anything to</p> <p>7 you, Z-u-r-n?</p> <p>8 A. No.</p> <p>9 Q. Okay. So you didn't know perhaps whether you</p> <p>10 had Zurn PEX in your house or not; is that correct?</p> <p>11 A. No.</p> <p>12 Q. Flip to Page Cole650. Again, there's a</p> <p>13 two-page article. Is this something that you printed</p> <p>14 out?</p> <p>15 A. About the warranty here?</p> <p>16 MR. KENNEY: This page.</p> <p>17 650, correct?</p> <p>18 MS. STEPHENS: Correct.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MS. STEPHENS:</p> <p>21 Q. Okay. And this article, I believe, has a</p> <p>22 title: Zurn PEX, Inc., Plumbing Fixture Defects.</p> <p>23 Is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. And do you believe your house, at any time,</p>

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<p style="text-align: right;">Page 118</p> <p>1 had any Zurn products in it?</p> <p>2 A. No.</p> <p>3 Q. And this last page that I've included in this</p> <p>4 exhibit is Cole652. Can you tell me, did you print</p> <p>5 out this particular document?</p> <p>6 A. Uh-huh, yes.</p> <p>7 Q. Okay. And why did you print out this</p> <p>8 document?</p> <p>9 A. All of these are printed out at the same</p> <p>10 time, and the reason I started diving into the</p> <p>11 internet was after I made that phone call, the first</p> <p>12 phone call to NIBCO, it was very obvious that they</p> <p>13 were not going to help me. He made it very obvious</p> <p>14 in a very laughing matter, and at this point, I did</p> <p>15 not find it to be a laughing matter, what was going</p> <p>16 on in my life and what was happening to the home that</p> <p>17 I had saved money for, for a very long time, and I</p> <p>18 felt like he was making a joke of me.</p> <p>19 And I personally like to think that my --</p> <p>20 I'm, at least, average intelligence, so at that</p> <p>21 point, I knew that there was something wrong and that</p> <p>22 they were totally blowing me off, and I felt as</p> <p>23 though I could do absolutely nothing about it. And</p> <p>24 so I got -- I was angry, I was hurt, and I felt like</p> <p>25 I was being taken advantage of, so I began to dive</p>	<p style="text-align: right;">Page 120</p> <p>1 A. Yes.</p> <p>2 MS. STEPHENS: Mrs. Cole, I'm going to</p> <p>3 hand you what I'm going to mark Cole Exhibit 13.</p> <p>4 (WHEREUPON, the above-mentioned document</p> <p>5 was marked as Exhibit Number 13.)</p> <p>6 BY MS. STEPHENS:</p> <p>7 Q. Flip through and tell me if you recognize</p> <p>8 that document.</p> <p>9 A. (Witness reviews document.)</p> <p>10 Yes.</p> <p>11 Q. Okay. Now, that was produced to me by your</p> <p>12 counsel. Do you recall printing that off at some</p> <p>13 point?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And was that -- and this appears to be</p> <p>16 a NIBCO PEX installation guide of some sort.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And do you recall when you printed</p> <p>19 this out?</p> <p>20 A. Uh-huh. When I was familiarizing myself with</p> <p>21 the situation, you know, with what I had, what was in</p> <p>22 my home.</p> <p>23 Q. Okay. So some of the things that we saw in</p> <p>24 the previous exhibit that you had printed out, you</p> <p>25 printed this out about the same time?</p>
<p style="text-align: right;">Page 119</p> <p>1 into whatever information I could find to see what --</p> <p>2 if this was happening to anybody else, because he</p> <p>3 treated me on the phone as if ha, ha, ha, I got to</p> <p>4 go.</p> <p>5 Q. Okay.</p> <p>6 A. And he hung up on me. So this was just stuff</p> <p>7 that I got on there and printed out and took home to</p> <p>8 Alan, and I was, like, whatever we have -- there's</p> <p>9 obviously an issue. Something is going on somewhere,</p> <p>10 and we need to start keeping track of what's</p> <p>11 happening because this seems like it's -- that Dad's</p> <p>12 right, there's something wrong. There's something</p> <p>13 wrong with this pipe.</p> <p>14 And so this was just information I stuck into</p> <p>15 my file folder. And when I was represented, when</p> <p>16 they asked me for everything I had, this was put on</p> <p>17 the front of it. I stapled it with all my other</p> <p>18 stuff and sent it over. I mean, does it have</p> <p>19 relevance to me? No. That's just what it is.</p> <p>20 MS. STEPHENS: Okay.</p> <p>21 (Lunch break taken.)</p> <p>22 BY MS. STEPHENS:</p> <p>23 Q. We are coming back from our lunch break.</p> <p>24 Mrs. Cole, do you understand that you're still under</p> <p>25 oath?</p>	<p style="text-align: right;">Page 121</p> <p>1 A. Yes, reading about the warranty and</p> <p>2 everything.</p> <p>3 Q. So that's the first you'd ever seen of this?</p> <p>4 A. Uh-huh.</p> <p>5 Q. Is that yes?</p> <p>6 A. Yes. I'm sorry.</p> <p>7 Q. Okay. And did you ever talk to your dad</p> <p>8 about whether he'd seen any of these manuals or</p> <p>9 catalogs about NIBCO?</p> <p>10 A. As far as?</p> <p>11 Q. Had he ever seen any of these? Did you show</p> <p>12 them to him?</p> <p>13 A. No. I didn't show him this, no. I talked to</p> <p>14 him about it. I mean, as far as the actual system,</p> <p>15 yes, I talked to him about it. But I didn't talk to</p> <p>16 him about me printing off this piece of paper, no.</p> <p>17 Q. Okay. And what did your conversation about</p> <p>18 the system entail with your father?</p> <p>19 A. I just asked him, you know, about it, like,</p> <p>20 you know, what are we supposed to do.</p> <p>21 Q. Do you know, to the extent your dad had</p> <p>22 installed NIBCO products in other homes, if that's</p> <p>23 something he had been doing a couple years or if</p> <p>24 that's something new for him?</p> <p>25 A. I don't know.</p>

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<p style="text-align: right;">Page 122</p> <p>1 Q. Okay. So you don't know one way or another</p> <p>2 what experience he has involving PEX or NIBCO in</p> <p>3 particular?</p> <p>4 A. No. He just -- I think he was just as</p> <p>5 bewildered as I was. You know, he just kept telling</p> <p>6 me that it was supposed to be a really good product</p> <p>7 and he just didn't know what was going on, but that</p> <p>8 something was going on.</p> <p>9 MS. STEPHENS: I'm going to hand you what</p> <p>10 we'll mark as Cole Exhibit 14.</p> <p>11 (WHEREUPON, the above-mentioned document</p> <p>12 was marked as Exhibit Number 14.)</p> <p>13 BY MS. STEPHENS:</p> <p>14 Q. This is a set of documents, and I've given it</p> <p>15 to you in the order that it was produced to me, that</p> <p>16 starts with Cole490. I believe the last page is 519.</p> <p>17 Does Exhibit 14 look familiar to you, or the</p> <p>18 documents in it?</p> <p>19 A. (Witness reviews document.)</p> <p>20 Uh-huh, yes.</p> <p>21 Q. Now, again, the first page appears to be,</p> <p>22 like, a cover page. Is that something that you typed</p> <p>23 up?</p> <p>24 A. Yeah. It was just to help me keep all of</p> <p>25 this organized.</p>	<p style="text-align: right;">Page 124</p> <p>1 Debbie is written in.</p> <p>2 A. Yes.</p> <p>3 Q. Do you know who Debbie is?</p> <p>4 A. Yes. It was Allstate's attorney.</p> <p>5 Q. And who is Cindy?</p> <p>6 A. She was Allstate's attorney, as well. They</p> <p>7 changed over. Like, somehow during -- you know, the</p> <p>8 first one was Cindy, and I think maybe then Debbie. I</p> <p>9 don't really know. I can't remember, to be honest.</p> <p>10 Q. And why were you sending -- why were you</p> <p>11 sending this letter? And then, also, it says:</p> <p>12 Enclosed are labeled pipes for both of our claims.</p> <p>13 A. Yes. This is the Allstate -- these are the</p> <p>14 representatives for Allstate.</p> <p>15 Q. Okay. And this is the letter that you</p> <p>16 included when you sent them the pipes that you</p> <p>17 submitted to them; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And those are the labeled pipes that you've</p> <p>20 never gotten back; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Do you know whether Allstate ever</p> <p>23 pursued a lawsuit against NIBCO?</p> <p>24 A. I think they did.</p> <p>25 Q. Do you know the outcome of that lawsuit?</p>
<p style="text-align: right;">Page 123</p> <p>1 Q. Okay. And at the top of the page, there's</p> <p>2 some handwriting with the words: Received 9/20/16.</p> <p>3 Is that your handwriting?</p> <p>4 A. No.</p> <p>5 Q. Do you know whose handwriting that is?</p> <p>6 A. No.</p> <p>7 Q. And so this is just various documents related</p> <p>8 to, I believe, the March 20th, 2012, insurance claim</p> <p>9 you made to Allstate. Is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Turn to Page 508, please. Do you</p> <p>12 recognize what's on page 508?</p> <p>13 A. (Witness reviews document.)</p> <p>14 Okay. Now, what did you ask me about this?</p> <p>15 Q. Okay. Do you recognize this letter?</p> <p>16 A. Yes.</p> <p>17 Q. And it's dated April 19th, 2012?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Is that a yes?</p> <p>20 A. Yes.</p> <p>21 Q. And it's addressed originally -- it's typed</p> <p>22 up. Did you type this up?</p> <p>23 A. Yes.</p> <p>24 Q. And originally, it looks like it was</p> <p>25 addressed to a Cindy, but then it's crossed out and</p>	<p style="text-align: right;">Page 125</p> <p>1 A. No, I do not.</p> <p>2 Q. Were you ever asked to provide any</p> <p>3 information for that lawsuit?</p> <p>4 A. I was asked for this information that I was</p> <p>5 given, but once I was representing myself, I was no</p> <p>6 longer to be involved with whatever they were doing.</p> <p>7 Q. So by that, you mean, once you became</p> <p>8 involved in the lawsuit that we're here for today,</p> <p>9 you were no longer involved in the lawsuit Allstate</p> <p>10 was involved in?</p> <p>11 A. Yes.</p> <p>12 Q. Was that a yes?</p> <p>13 A. Yes. Can you resay that again?</p> <p>14 Q. Okay. Once you became -- you made the</p> <p>15 decision to pursue this lawsuit that you're being</p> <p>16 deposed in, on behalf -- let me start over.</p> <p>17 Once you became in the lawsuit that we're</p> <p>18 here for today --</p> <p>19 A. Yes.</p> <p>20 Q. -- you were no longer involved in the lawsuit</p> <p>21 that you believe Allstate brought against NIBCO?</p> <p>22 A. Yes. I provided them with a letter letting</p> <p>23 them know that I could no longer be involved with</p> <p>24 anything they did.</p> <p>25 Q. Okay. So I see there -- about a third of the</p>

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<p style="text-align: right;">Page 126</p> <p>1 way down, do you see the sentence that starts: After</p> <p>2 you are all done with this evidence, I ask it be</p> <p>3 returned to me?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And that's, again, where you were</p> <p>6 indicating that you wanted them to send that pipe</p> <p>7 back to you when they were done?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. But to your knowledge, they have not?</p> <p>10 A. No, they have not.</p> <p>11 Q. About four lines up -- three lines, it says:</p> <p>12 Our contractor is also having issues with this piping</p> <p>13 in some other homes he has built and would be happy</p> <p>14 to discuss it with your legal department if needed.</p> <p>15 Do you know whether your dad ever talked to</p> <p>16 Allstate about the issues in your house or other</p> <p>17 homes?</p> <p>18 A. I don't.</p> <p>19 Q. Did you ever speak to the salesman T.R. Dunn?</p> <p>20 A. I did not.</p> <p>21 Q. Did you get that name from your dad?</p> <p>22 A. Yes.</p> <p>23 Q. Did you ever talk to anyone at Kenny Pipe</p> <p>24 about the PEX that ended up in your house?</p> <p>25 A. Not that I recall.</p>	<p style="text-align: right;">Page 128</p> <p>1 letter?</p> <p>2 A. Yes. I -- yes.</p> <p>3 Q. And who at Jackson Backhoe wrote this letter?</p> <p>4 A. I don't know. I just told the guy I needed a</p> <p>5 letter. I don't know his name.</p> <p>6 Q. Did you ever know his name? Do you have it</p> <p>7 written down somewhere?</p> <p>8 A. No. The guy that was -- that fixed it.</p> <p>9 Really, to be honest, I don't remember how this</p> <p>10 letter came about or why I decided I needed it, to be</p> <p>11 quite honest. Somebody must have told me I needed</p> <p>12 one at some point in time for me to have one and</p> <p>13 gotten it.</p> <p>14 Q. Other than the repairs, it indicates here</p> <p>15 that Jackson Backhoe & Plumbing came out and did</p> <p>16 repairs on March 20th and March 27th, 2012. Did</p> <p>17 Jackson Backhoe & Plumbing do any other repairs for</p> <p>18 you at your home?</p> <p>19 A. No.</p> <p>20 Q. As I recall, you testified that the other</p> <p>21 plumbing repairs that were done at your home were</p> <p>22 either done by you, Alan, your dad, or perhaps</p> <p>23 Benard. Is that correct?</p> <p>24 A. The plumbing -- yes, yes.</p> <p>25 Q. Okay. Set that aside.</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Turn a few pages before that to Cole505,</p> <p>2 please. Do you see this appears to be under</p> <p>3 letterhead for Jackson Backhoe & Plumbing, LLC?</p> <p>4 A. Yes.</p> <p>5 Q. And as I recall, Allstate hired Jackson</p> <p>6 Backhoe. Is that correct?</p> <p>7 A. No. We had to -- they recommended. You</p> <p>8 know, they have a list of people that they -- like</p> <p>9 most insurance companies, this is who you can call.</p> <p>10 You know, we use this plumber; you can call this</p> <p>11 plumber.</p> <p>12 Q. Okay.</p> <p>13 A. Because we didn't know who to call. You</p> <p>14 know, at this point, I didn't want to call my dad</p> <p>15 anymore. So they just said these people do it, so we</p> <p>16 called them ourselves. We had to call them</p> <p>17 ourselves. As you know, an insurance company only</p> <p>18 covers damage costs, not the actual damage itself.</p> <p>19 That was something really difficult for me to</p> <p>20 understand.</p> <p>21 Q. So you hired Jackson Backhoe & Plumbing off</p> <p>22 the recommendation, you believe, of Allstate to do</p> <p>23 the plumbing repairs in your house at some point?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And did you ask them to type up this</p>	<p style="text-align: right;">Page 129</p> <p>1 Were you the one who primarily handled the</p> <p>2 insurance claims, between you and Alan?</p> <p>3 A. Yes.</p> <p>4 MS. STEPHENS: I'll hand you what I've</p> <p>5 marked Kimberly Cole Exhibit 15.</p> <p>6 (WHEREUPON, the above-mentioned document</p> <p>7 was marked as Exhibit Number 15.)</p> <p>8 BY MS. STEPHENS:</p> <p>9 Q. This is a set of documents, again, that's</p> <p>10 produced to you -- to us by your counsel. The Bates</p> <p>11 label is Cole520 through 534 -- excuse me. It should</p> <p>12 only be 533. Looks like there's an extra page on</p> <p>13 there.</p> <p>14 All right. So as modified, the exhibit is</p> <p>15 now 520 through 533. Do you recognize the documents</p> <p>16 in this Exhibit 15?</p> <p>17 A. (Witness reviews document.)</p> <p>18 Yes.</p> <p>19 Q. As I recall, you testified earlier today that</p> <p>20 other than the deductible that you had to pay and the</p> <p>21 plumbing repairs that you had to pay for, you were</p> <p>22 fully compensated for the damage to your home from</p> <p>23 these March 2012 leaks. Is that correct?</p> <p>24 MR. KENNEY: Object to the extent it</p> <p>25 calls for a legal conclusion or expert testimony, but</p>

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<p style="text-align: right;">Page 130</p> <p>1 you can answer if you know.</p> <p>2 THE WITNESS: Can you say the question</p> <p>3 again?</p> <p>4 MS. STEPHENS: Can you repeat the</p> <p>5 question?</p> <p>6 (WHEREUPON, the reporter read back the</p> <p>7 pending question.)</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MS. STEPHENS:</p> <p>10 Q. So through the repairs that were paid for by</p> <p>11 Allstate, your house was, for lack of a better term,</p> <p>12 put back together as it was?</p> <p>13 MR. KENNEY: Same objections, but you can</p> <p>14 answer.</p> <p>15 THE WITNESS: Yes, it looked the same.</p> <p>16 BY MS. STEPHENS:</p> <p>17 Q. You're making a distinction between looking</p> <p>18 the same and being the same?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And what is that distinction?</p> <p>21 A. Outwardly, appearance, it looked the same.</p> <p>22 On the inside, I don't really know.</p> <p>23 MS. STEPHENS: Okay. I'll hand you what</p> <p>24 was marked Kimberly Cole Exhibit 16.</p> <p>25 (WHEREUPON, the above-mentioned document</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Okay. And who is Jeremy? Do you remember?</p> <p>2 A. I think Jeremy was with Allstate.</p> <p>3 Q. Okay. Maybe the claims adjuster?</p> <p>4 A. Yeah, uh-huh.</p> <p>5 Q. And who -- and Paul Davis was one of the</p> <p>6 people who did some repairs on your house?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. They did some of the restoration work?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Well, I'm trying to understand what,</p> <p>11 First flood work not done correctly, means.</p> <p>12 A. Oh, they forgot to put some insulation back</p> <p>13 in above our -- in the ceiling, and I was not happy</p> <p>14 about that. That was what that was about.</p> <p>15 Q. So you're making sure that that got done</p> <p>16 correctly?</p> <p>17 A. Yes.</p> <p>18 Q. On -- if you look at the next page --</p> <p>19 A. Wait. Can we go to --</p> <p>20 Q. Yeah. Sure.</p> <p>21 A. I was telling you, they run together.</p> <p>22 Where's my timeline? That may have been another</p> <p>23 concern I had. Hang on. Where's my claim? I have</p> <p>24 to get my dates right before I say anything. This</p> <p>25 was on the 21st. The first leak was on the 20th.</p>
<p style="text-align: right;">Page 131</p> <p>1 was marked as Exhibit Number 16.)</p> <p>2 BY MS. STEPHENS:</p> <p>3 Q. Take a look and let me know when you're</p> <p>4 ready. For the record, this is Cole673 through</p> <p>5 Cole679.</p> <p>6 A. (Witness reviews document.)</p> <p>7 Okay.</p> <p>8 Q. These appear to be a set of copies of some</p> <p>9 calendar pages; is that correct?</p> <p>10 A. Yeah, yes.</p> <p>11 Q. And is this the calendar that you maintained?</p> <p>12 A. Yes.</p> <p>13 Q. And this is your handwriting on here?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. I'm just going to draw your attention</p> <p>16 to some of the notes, if you can help me read them.</p> <p>17 A. Sure.</p> <p>18 Q. On March 21st, 2012, I was trying to read</p> <p>19 this note. It says: Spoke to Jeremy.</p> <p>20 Could you read that whole note for me?</p> <p>21 A. Sure. Some of this is medical abbreviations,</p> <p>22 you know. I'm sorry.</p> <p>23 Spoke with Jeremy about my concerns. Paul</p> <p>24 Davis not looking enough. This keeps happening. Was</p> <p>25 first flood work not done correctly?</p>	<p style="text-align: right;">Page 133</p> <p>1 Hang on.</p> <p>2 MR. KENNEY: A lot of documents.</p> <p>3 THE WITNESS: Yes.</p> <p>4 That was not right. What my concern was,</p> <p>5 was when they were there the first time for claim</p> <p>6 one, that I was worried that they didn't find -- that</p> <p>7 there was more than one area leaking, because when we</p> <p>8 found the water damage, I had saw another spot that</p> <p>9 was wet and I had told them about it, and he said,</p> <p>10 Oh, that was probably just overhead spray.</p> <p>11 And I said, Well, y'all didn't go look</p> <p>12 over there; can somebody go look over there?</p> <p>13 And then however many days later -- so --</p> <p>14 and I ended up having to have two separate claims.</p> <p>15 And I felt like at that -- I was really concerned</p> <p>16 about that wet spot that was far away that had dried,</p> <p>17 so that's what that was about. It was something</p> <p>18 totally --</p> <p>19 BY MS. STEPHENS:</p> <p>20 Q. Let me make sure I -- just see if I</p> <p>21 understand what you're saying. You were concerned</p> <p>22 that when they came out to look at -- that when they</p> <p>23 looked at the wet spot for the original March 2012</p> <p>24 leak, that they missed something, and that there was</p> <p>25 another area that was --</p>

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<p style="text-align: right;">Page 134</p> <p>1 A. That there were two separate areas leaking in</p> <p>2 the pipe. Not that they had done something wrong,</p> <p>3 but that they didn't find all the leaky spots. That</p> <p>4 there was another spot leaking.</p> <p>5 Q. And then if we see the notes from March 23rd,</p> <p>6 we see another call to Jeremy. It looks like you</p> <p>7 called in a claim?</p> <p>8 A. Yep.</p> <p>9 Q. And that's the second claim?</p> <p>10 A. Yeah.</p> <p>11 Q. When you're making these notes on here, are</p> <p>12 you making them, you know, throughout the day or</p> <p>13 what?</p> <p>14 A. (Nodding head affirmatively.)</p> <p>15 Q. Yes?</p> <p>16 A. Yes.</p> <p>17 Q. Can you flip to the next page, please? The</p> <p>18 March 27th, 2012, entry, there's a thing that says:</p> <p>19 Plumber Daniel.</p> <p>20 Is that correct?</p> <p>21 A. Where am I looking again?</p> <p>22 Q. March 27th.</p> <p>23 A. Plumber came. Plumber came. Okay. Yeah, it</p> <p>24 just says: Plumber Daniel.</p> <p>25 Okay.</p>	<p style="text-align: right;">Page 136</p> <p>1 A. I guess the mold.</p> <p>2 Q. You're not sure?</p> <p>3 A. No, I'm not sure.</p> <p>4 Q. Can you flip to the next page, please? It's</p> <p>5 Page Cole675. On -- can you look at the entry for</p> <p>6 April 4th, please? Do you see that there's an</p> <p>7 indication for Williams Plumbing?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Yes, you see that?</p> <p>10 A. Yes.</p> <p>11 Q. It says: Estimate for replacing.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Can you tell me what that notation</p> <p>15 means?</p> <p>16 A. Yes, I sure can. We called Williams Plumbing</p> <p>17 to come out and give us an estimate, and they</p> <p>18 declined and left.</p> <p>19 Q. And why did they decline? Did they say?</p> <p>20 A. Because they could not give us appropriate</p> <p>21 estimate because they would -- because of the leaks</p> <p>22 and because of what was going on, and then the way,</p> <p>23 like, it's ran in our walls -- the piping, the way</p> <p>24 it's done in our walls, you know, like, how pipe is</p> <p>25 ran, they couldn't see, like, how much damage was</p>
<p style="text-align: right;">Page 135</p> <p>1 Q. Does that refresh your recollection about the</p> <p>2 name of the plumber from Jackson?</p> <p>3 A. I guess Daniel was his name. That's about</p> <p>4 all. That would be it.</p> <p>5 Q. Now, can you read the note below that?</p> <p>6 A. Yeah. Called T.R. at Kenny Pipe.</p> <p>7 Q. I'm sorry. You're on March 26th?</p> <p>8 A. No, I'm on the 27th.</p> <p>9 MR. KENNEY: There's one on the line</p> <p>10 right above that.</p> <p>11 THE WITNESS: Found mold in laundry.</p> <p>12 BY MS. STEPHENS:</p> <p>13 Q. And then it says: Called T.R. at Kenny Pipe.</p> <p>14 A. Uh-huh.</p> <p>15 Q. Do you recall talking to T.R. at Kenny Pipe?</p> <p>16 A. No.</p> <p>17 Q. What does the little note coming up off that</p> <p>18 say?</p> <p>19 A. Found mold in laundry.</p> <p>20 And right above it, it says: Joe said it was</p> <p>21 new.</p> <p>22 Q. Who is Joe?</p> <p>23 A. Joe is with Paul Davis, I believe.</p> <p>24 Q. Do you remember -- do you know what that</p> <p>25 means? What was new?</p>	<p style="text-align: right;">Page 137</p> <p>1 actually done in there from all of the leaks that had</p> <p>2 been going on and the --</p> <p>3 Q. Was this estimate that you received from</p> <p>4 Williams Plumbing --</p> <p>5 A. We didn't get an estimate.</p> <p>6 Q. Okay. Sorry. I misspoke.</p> <p>7 Is this -- what you were seeking from</p> <p>8 Williams Plumbing an estimate to replace all of the</p> <p>9 piping in your house or just some of it?</p> <p>10 A. All of it.</p> <p>11 Q. Did you ever talk to Williams Plumbing again?</p> <p>12 A. No.</p> <p>13 Q. The next day, the entry for April 5th, 2012,</p> <p>14 some of it is hard to read, but there's a 10:00 a.m.</p> <p>15 Kim and Kathy. Do you know who that is?</p> <p>16 A. Yes.</p> <p>17 Q. Is that personal thing unrelated to this?</p> <p>18 A. It's for my daughter, our adopted daughter's</p> <p>19 therapy.</p> <p>20 Q. Okay. And then it looks like there's some</p> <p>21 notes that might be related to some of the plumbing</p> <p>22 stuff, if you can read them.</p> <p>23 A. Called and spoke with a Jared.</p> <p>24 That's all it says. Well, maybe: At NIBCO.</p> <p>25 Q. Okay. And this might be reflecting that --</p>

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<p style="text-align: right;">Page 138</p> <p>1 you know, we saw earlier on that e-mail that Jared</p> <p>2 was someone you spoke to at NIBCO --</p> <p>3 A. Regarding --</p> <p>4 Q. -- approximately, on April 5th. Is that</p> <p>5 correct?</p> <p>6 A. Yeah, I guess. Or maybe --</p> <p>7 Q. We can look back at the exhibit if you'd</p> <p>8 like.</p> <p>9 A. It has to be. I think that that's just done</p> <p>10 in pencil and maybe my pencil died, maybe, is what</p> <p>11 that looks like. I don't think it's erased because</p> <p>12 it says called and -- yeah. It says called and...</p> <p>13 Q. Okay. And below that, it appears to say:</p> <p>14 Said it's usually an installation problem.</p> <p>15 A. Uh-huh.</p> <p>16 Q. And that's something that Jared told you?</p> <p>17 A. Yes, that I have to send pipe in for testing.</p> <p>18 That's when he told me about the expansion tank and</p> <p>19 if I didn't have an expansion tank, that was what was</p> <p>20 wrong.</p> <p>21 Q. And it says something about end of Alan call.</p> <p>22 A. I don't know what that means.</p> <p>23 Q. Okay.</p> <p>24 A. I don't remember.</p> <p>25 Q. So it appears that, if I can read this note,</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. Okay. Well, passed the baton?</p> <p>2 A. I think by the -- after the March 2012 claim,</p> <p>3 with five children and -- that I was -- the next one</p> <p>4 that occurred, I was, like, this one is yours; I</p> <p>5 can't -- I can't take anything right now. So... And</p> <p>6 then, you know, he would do it for a while, and then</p> <p>7 I would get back involved. We try to be a good team.</p> <p>8 So I was involved in a lot of these, and he was, as</p> <p>9 well.</p> <p>10 Q. What are you seeking from NIBCO in this</p> <p>11 lawsuit, Mrs. Cole?</p> <p>12 MR. KENNEY: Object to the extent it</p> <p>13 calls for a legal conclusion or expert testimony, but</p> <p>14 you can answer if you know.</p> <p>15 THE WITNESS: My life back how it was</p> <p>16 before this all started. That's what I want.</p> <p>17 BY MS. STEPHENS:</p> <p>18 Q. How in your mind does that work? How does</p> <p>19 NIBCO give you your life back?</p> <p>20 A. Well, in all actuality, they can't give me my</p> <p>21 time back, but financially, I would like to be back</p> <p>22 where I was when this all started.</p> <p>23 Q. And what does that include?</p> <p>24 A. I couldn't give you an exact estimate right</p> <p>25 now.</p>
<p style="text-align: right;">Page 139</p> <p>1 it says: I have to send pipe in for testing to use</p> <p>2 warranty.</p> <p>3 A. Uh-huh, yes.</p> <p>4 Q. So you understood, at that time, that to use</p> <p>5 the warranty, you needed to send the pipe in to</p> <p>6 NIBCO?</p> <p>7 A. Yes.</p> <p>8 Q. Now, when I flip through these, and the last</p> <p>9 page that I get to is October 2012, do you have any</p> <p>10 more calendar notes related to the leaks that you had</p> <p>11 later than October 2012?</p> <p>12 A. No.</p> <p>13 Q. Okay. So this is the last you kind of kept</p> <p>14 track of this thing?</p> <p>15 A. Yes.</p> <p>16 Q. I didn't want to interrupt you. Are you</p> <p>17 trying to --</p> <p>18 A. I was just thinking about your last question</p> <p>19 and trying to remember if I wrote anything down</p> <p>20 anywhere else, but if I did, I would have submitted</p> <p>21 it to them.</p> <p>22 Q. Okay. At some point, you indicated that you</p> <p>23 kind of gave this project over to your husband; is</p> <p>24 that correct?</p> <p>25 A. I wouldn't say "gave."</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. Can you give me a category of what that</p> <p>2 includes, how -- the things that would go into it?</p> <p>3 A. My losses, what I've lost from this.</p> <p>4 Q. And what have you lost? This is my</p> <p>5 opportunity to ask you these questions, so I'd like</p> <p>6 the best answers that you can give me.</p> <p>7 A. My entire financial savings. You know --</p> <p>8 let's see. After from March the 12th, from --</p> <p>9 October the 12th to September of 2016, every bit of</p> <p>10 that was paid for by my husband and I. And what --</p> <p>11 you know, \$5,000 a year for a homeowners insurance</p> <p>12 that you -- I can't even begin to explain to you.</p> <p>13 Q. Okay.</p> <p>14 A. I understand what you're asking me.</p> <p>15 Q. I'm not trying to antagonize you.</p> <p>16 A. No, I understand.</p> <p>17 Q. But this is my opportunity, and I have a job</p> <p>18 to do here today --</p> <p>19 A. I absolutely understand.</p> <p>20 Q. -- on behalf of my client, and I need to</p> <p>21 know, okay, what out-of-pocket expenses you have</p> <p>22 incurred, as a result of -- you know, the things that</p> <p>23 you have not been compensated for, to the best of</p> <p>24 your ability.</p> <p>25 A. First, I was not prepared to answer that.</p>

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<p style="text-align: right;">Page 142</p> <p>1 Second, I can't answer it. I would have to sit down 2 and go through my documentation and calculate it all 3 together to give you an estimate. I mean, you have 4 an estimate of what it would be to fix my house, but 5 even people who come in to give me an estimate can't 6 give me an exact cost. I want my home back how it 7 was the day I moved in. I want all my money back 8 that I saved up for years to provide for my children. 9 I want everything back that I worked hard for to give 10 myself the life that I deserved. And it was taken 11 from me for nothing. That's what I want. 12 MR. KENNEY: Do you want to take a break? 13 THE WITNESS: No, I'm good. 14 MS. STEPHENS: Speak up if you need to. 15 It's fine. 16 THE WITNESS: No. 17 I feel like they robbed me. And they 18 laughed at me. If they would have just kept up with 19 the warranty, and then just came in and fixed the 20 problem to begin with, nobody would be here. And 21 it's a slap in the face and it's hurtful. So there 22 is no estimated number I can -- I don't even know 23 what to say. 24 MS. STEPHENS: Let's take a quick break. 25 I want to show her the videos and I want to make sure</p>	<p style="text-align: right;">Page 144</p> <p>1 them. Do you understand that you're still under 2 oath? 3 A. Yes, ma'am. 4 Q. Okay. Were the videos something that you 5 took and submitted as part of any of your insurance 6 claims? 7 A. Not that I recall. 8 Q. Okay. It's just something that you started 9 doing to try to document what was going on in your 10 house? 11 A. Yes. 12 Q. And as I recall, you believe they were made 13 on some phones that you had over the years and 14 perhaps, also, a video camera. Is that correct? 15 A. Yes. 16 Q. To the extent -- and we went through, you 17 know, a bunch of those batches of the photos. To the 18 extent the photos in there were taken by you or your 19 husband, were those, again, taken on phones that you 20 owned, probably? 21 A. Yes. 22 Q. Did you also have, like, a photo -- an actual 23 just regular camera that you would occasionally take 24 pictures with? 25 A. In the very beginning, like back when</p>
<p style="text-align: right;">Page 143</p> <p>1 I do that in the most efficient manner possible, so 2 let's take a quick break so I can set that up. 3 (Short break.) 4 MS. STEPHENS: We're back on the record. 5 Mrs. Cole, before I ask you some more 6 questions, I'm going to put something on the record 7 with your counsel. 8 We just talked about off the record the 9 videos that have been submitted to me in this case. 10 I believe they're a collection of 18 -- 17 or 18 11 videos that have the Bates labels Cole800 through 12 Cole817. And your counsel and I have come to an 13 agreement about after this deposition, your counsel 14 conferring with you to try to determine the 15 approximate dates that those videos were taken and 16 the location of the house where they were taken, and 17 that you're going to do your best to provide that 18 information to me instead of going over it in the 19 deposition today. 20 MR. KENNEY: That's correct. And that's 21 fine with us. 22 MS. STEPHENS: Okay. Thank you. 23 BY MS. STEPHENS: 24 Q. I do want to ask a couple questions about the 25 videos in general for a little more context behind</p>	<p style="text-align: right;">Page 145</p> <p>1 everybody had those cameras. 2 Q. Back when we all had digital cameras instead 3 of phones? 4 A. Yeah. Like, the Sony cameras. Yeah, some 5 were on those, but then it went to regular phones. 6 Q. The estimates that you had regarding 7 replumbing your house, do you believe those were to 8 replace the plumbing with PEX materials or with a 9 different material? 10 A. I don't know. 11 Q. Other than the discussions we've already 12 talked about today, have you had any other 13 discussions with your dad about the issues you've 14 been having in your house, the plumbing issues, 15 specifically? 16 A. Can you elaborate a little more? 17 Q. Sure. 18 Well, you said you had a discussion with your 19 dad, I think after the March 2012 leaks, about the 20 issues you were having. Do you remember that? 21 A. Yes. 22 Q. Okay. And he suggested that you contact the 23 manufacturer; is that correct? 24 A. Yes. 25 Q. Did he know it was NIBCO at that time or did</p>

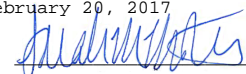
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<p style="text-align: right;">Page 146</p> <p>1 he have to look into it, as well?</p> <p>2 A. I think he had to look into it. I think --</p> <p>3 yeah, I'm fairly certain he had to look into it.</p> <p>4 Like, he had to call -- he knew it was NIBCO, but you</p> <p>5 know, at that time is when he told me there's -- he</p> <p>6 knew there was a warranty and he told me that he</p> <p>7 would call the salesman. And when I looked at that</p> <p>8 one exhibit somewhere in here, it was my calendar, it</p> <p>9 refreshed my memory of what kind of went down. You</p> <p>10 know, that was however many years ago. But he called</p> <p>11 them and told me that that's how I needed to get</p> <p>12 started on what I needed to do. I think that's what</p> <p>13 you're asking me. I'm really not sure.</p> <p>14 Q. Subsequent to that, I think you might have</p> <p>15 mentioned earlier that you stopped having your dad</p> <p>16 help you with the plumbing stuff at some point.</p> <p>17 A. Yes.</p> <p>18 Q. Was there a reason for that or just --</p> <p>19 A. Oh, no, no. No. Like, we -- I really -- I</p> <p>20 didn't stop getting him to help me because I thought</p> <p>21 he was doing something wrong, if that's what you're</p> <p>22 asking me.</p> <p>23 Q. Well, then why? I'm just trying to</p> <p>24 understand.</p> <p>25 A. No, because he didn't know. He was, like,</p>	<p style="text-align: right;">Page 148</p> <p>1 was represented, that your father no longer --</p> <p>2 construction business closed down a few years ago or</p> <p>3 they don't have the records?</p> <p>4 A. Yes.</p> <p>5 Q. Did you ask your dad for any records</p> <p>6 regarding the plumbing that was in your house?</p> <p>7 A. When?</p> <p>8 Q. At any time.</p> <p>9 A. Yeah. I asked him, like, if there was any</p> <p>10 records because at one point, they said sun exposure</p> <p>11 could cause, you know, breakdown of the pipe or</p> <p>12 something. That's what the guy told me on the phone.</p> <p>13 So I asked him, like, how long did he have it, but</p> <p>14 that was back when I first built the house. But</p> <p>15 that's really all I ever asked him for. I didn't ask</p> <p>16 him for -- I had no reason to ask him for any</p> <p>17 records.</p> <p>18 Q. Okay. And you said the construction of the</p> <p>19 house started in 2008; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And do you know what month, approximately?</p> <p>22 A. Oh, I can't remember, but I have it written</p> <p>23 down on something. I think it might have been August</p> <p>24 of 2008, but I can't be for sure.</p> <p>25 Q. When was the most recent leak in your house</p>
<p style="text-align: right;">Page 147</p> <p>1 You need to pursue -- like, This is a warranty issue;</p> <p>2 there's something wrong with this.</p> <p>3 He still came and helped Alan every time we</p> <p>4 had one, like showed us how to do that.</p> <p>5 Q. And that's what I was trying to --</p> <p>6 A. Yes. I'm sorry.</p> <p>7 Q. -- figure out, between those two pieces of</p> <p>8 testimony what you meant exactly.</p> <p>9 Are you aware that as part of this lawsuit</p> <p>10 that I served your dad with a subpoena for documents?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Did you talk to your dad about that?</p> <p>13 A. Not really.</p> <p>14 Q. Okay. Do you know whether he retained</p> <p>15 counsel to help him respond to that?</p> <p>16 A. No, I don't know.</p> <p>17 Q. He didn't?</p> <p>18 A. I know he has an attorney, but I don't know</p> <p>19 if he retained counsel for that.</p> <p>20 Q. Okay.</p> <p>21 A. He has an overall attorney all the time.</p> <p>22 Q. Okay. Did you see the affidavit that he</p> <p>23 submitted to me in this case?</p> <p>24 A. No.</p> <p>25 Q. I understand, at least based on that, what</p>	<p style="text-align: right;">Page 149</p> <p>1 that you can remember?</p> <p>2 A. Like, in my bathroom was the last one, maybe.</p> <p>3 Q. Okay. Do you want to maybe refer to that</p> <p>4 exhibit?</p> <p>5 A. Yeah.</p> <p>6 MR. KENNEY: Got it.</p> <p>7 THE WITNESS: Yeah. September.</p> <p>8 BY MS. STEPHENS:</p> <p>9 Q. September 2016?</p> <p>10 A. Yeah.</p> <p>11 Q. Which reminds me, when did you type this up;</p> <p>12 that is, Cole Exhibit 4?</p> <p>13 A. I think it was sometime around when I was</p> <p>14 getting everything together to submit to them, like,</p> <p>15 everything. They were asking me the same questions</p> <p>16 you were about the videos and all my pictures and</p> <p>17 everything.</p> <p>18 Q. So you --</p> <p>19 A. So I tried to sit down with everything and...</p> <p>20 Q. Have you had any leaks since that September</p> <p>21 2016 leak?</p> <p>22 A. No. Not so far. You'll notice there's a</p> <p>23 trend. If you look at it, there will be a few</p> <p>24 months, and then it will come back.</p> <p>25 Q. Do you recall having a discussion, when you</p>

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<p style="text-align: right;">Page 150</p> <p>1 were deciding to build this house, about what kind of</p> <p>2 plumbing the house was going to have?</p> <p>3 A. No.</p> <p>4 Q. So not with Alan or your dad or anyone?</p> <p>5 A. No.</p> <p>6 Q. How much did your house cost to construct?</p> <p>7 A. 200- -- \$220,000. Somewhere around that.</p> <p>8 That's an estimated range. \$220,000, I think.</p> <p>9 Q. Now, since your -- I don't know. But since</p> <p>10 your dad was your general contractor, did you guys</p> <p>11 have, like, a formal agreement with him or did he</p> <p>12 just kind of charge you as you went along? What kind</p> <p>13 of arrangement did you guys have?</p> <p>14 A. I don't really understand the question.</p> <p>15 Like, what are you asking me?</p> <p>16 Q. Okay. Well --</p> <p>17 A. Like, we took out a construction loan, Alan</p> <p>18 and I.</p> <p>19 Q. Okay.</p> <p>20 A. And my dad was the contractor and he built</p> <p>21 it. And then we wrote -- you know, we had an account</p> <p>22 that we paid for the construction as it went along.</p> <p>23 Q. It's just a different situation because it</p> <p>24 was your dad building it --</p> <p>25 A. Right.</p>	<p style="text-align: right;">Page 152</p> <p style="text-align: center;">E R R A T A P A G E</p> <p>1 I, KIMBERLY COLE, having read the foregoing</p> <p>2 deposition, Pages 1 through 151, do hereby certify</p> <p>3 said testimony is a true and accurate transcript,</p> <p>4 with the following changes (if any):</p> <table border="1"> <thead> <tr> <th>PAGE</th> <th>LINE</th> <th>SHOULD HAVE BEEN</th> </tr> </thead> <tbody> <tr><td>5</td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td></tr> </tbody> </table> <p style="text-align: right;">KIMBERLY COLE</p> <p>Notary Public</p> <p>My Commission Expires: _____</p> <p>U.S. Legal Support Job No. 556219</p>	PAGE	LINE	SHOULD HAVE BEEN	5			6			7			8			9			10			11			12			13			14			15			16			17			18			19			20			21			22			23			24			25		
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<p style="text-align: right;">Page 151</p> <p>1 Q. -- as opposed to a home builder that you're</p> <p>2 not related to. I wasn't sure what the situation</p> <p>3 was.</p> <p>4 So you think you paid your dad -- or you</p> <p>5 spent about \$220,000 on the construction of the home;</p> <p>6 is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. When you were trying to refinance the home,</p> <p>9 did you get an estimate about what the home is worth?</p> <p>10 A. Yes, I did.</p> <p>11 Q. And what is that?</p> <p>12 A. 230-something.</p> <p>13 Q. Okay.</p> <p>14 A. The market had went down. I think originally</p> <p>15 it was 248-, and then I think it was 236-, actually.</p> <p>16 MS. STEPHENS: I don't have any more</p> <p>17 questions for you today. I appreciate your time</p> <p>18 today and I appreciate you working with Joe on those</p> <p>19 videos. That will be very helpful to me. Okay?</p> <p>20 THE WITNESS: Thank you.</p> <p>21 FURTHER DEPONENT SAITH NOT</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 153</p> <p style="text-align: center;">REPORTER'S CERTIFICATE</p> <p>1 STATE OF TENNESSEE</p> <p>2 COUNTY OF WILLIAMSON</p> <p>3 I, SARAH M. MOTLEY, Licensed Court Reporter,</p> <p>4 with offices in Franklin, Tennessee, hereby certify</p> <p>5 that I reported the foregoing deposition of KIMBERLY</p> <p>6 COLE by machine shorthand to the best of my skills</p> <p>7 and abilities, and thereafter the same was reduced to</p> <p>8 typewritten form by me.</p> <p>9 I further certify that I am not related to</p> <p>10 any of the parties named herein, nor their counsel,</p> <p>11 and have no interest, financial or otherwise, in the</p> <p>12 outcome of the proceedings.</p> <p>13 I further certify that in order for this</p> <p>14 document to be considered a true and correct copy, it</p> <p>15 must bear my original signature and that any</p> <p>16 unauthorized reproduction in whole or in part and/or</p> <p>17 transfer of this document is not authorized, will not</p> <p>18 be considered authentic, and will be in violation of</p> <p>19 Tennessee Code Annotated 39-14-104, Theft of</p> <p>20 Services.</p> <p>21 Dated: February 20, 2017</p> <p>22 </p> <p>23 SARAH M. MOTLEY, LCR</p> <p>24 Licensed Court Reporter (TN)</p> <p>25 Notary Public State of Tennessee</p> <p>My Notary Commission Expires: 1/9/2021</p> <p>LCR #383 - Expires: 6/30/2018</p>																																																																		

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